

IN THE COUNTY OF WASHINGTON

VIRGINIA DEPARTMENT OF MINES, MINERALS AND ENERGY
VIRGINIA GAS AND OIL BOARD

MAY 16, 2006

APPEARANCES:

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BILL HARRIS - PUBLIC MEMBER
DONALD RATLIFF - COAL REPRESENTATIVE
JAMES McINTRYE - PUBLIC MEMBER

CHAIRMAN:

BENNY WAMPLER - DEPUTY DIRECTOR OF THE DMME AND CHAIRMAN

BOB WILSON - DIRECTOR OF THE DIVISION OF GAS & OIL AND
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BENNY WAMPLER: My name is Benny Wampler. I'm Deputy Director for the Department of Mines, Minerals and Energy and Chairman of the Gas and Oil Board. If you have cell phones, if you would please cut those off or put them on mute/silent mode or something like that that would be helpful. These microphones are not microphones that will project. There's just to record. So, if you will cooperate. Try not to chatter during the...during the hearing and everything because it's really difficult for the stenographer to get the information and that information is always very important. I'll ask the Board members to introduce themselves starting with Ms. Quillen.

MARY QUILLEN: Mary Quillen, Director of Academic Programs for the University of Virginia and a citizen representative on the Board.

JOSE SIMON: Jose Simon, Director of Public Affairs of Virginia Natural Gas and I'm the gas interest representative.

BILL HARRIS: I'm Bill Harris, a public member from Wise County.

JAMES MCINTRYE: Jim McIntrye, a public member from Wise, Virginia.

BOB WILSON: I'm Bob Wilson. I am the Director of the Division of Gas and Oil and Principal Executive to the

Staff of the Board.

BENNY WAMPLER: The first item on today's agenda is a petition from EOG Resources, Inc. for creating and pooling of a conventional gas unit Plum Creek #27-06. This is docket number VGOB-06-0321-1604. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

TIM SCOTT: Tim Scott for EOG Resources.

JIM KAISER: Jim Kaiser for Equitable Production Company.

TIM SCOTT: Mr. Chairman, we've agreed to continue this until the June docket. We're still trying to work an agreement the two...two parties.

BENNY WAMPLER: Without objection, it's continued.
Do you want me to call those?

JIM KAISER: Yeah.

TIM SCOTT: Uh-huh.

JIM KAISER: Okay. Are you for the...okay, next is a petition from Equitable Production Company for repooling of coalbed methane unit VC-536616, docket number VGOB-05-1115-1532-01 and docket number VGOB-05-1115-1533-01, VGOB-05-1115-1537-01 and docket number VGOB-06-0321-1608. We'd ask the parties that wish to address the Board in these items to come forward at this time.

JIM KAISER: Mr. Chairman, Jim Kaiser on behalf of Equitable Production Company.

TIM SCOTT: Tim Scott for Pine Mountain Oil and Gas.

JIM KAISER: We'd ask that those four matters be continued until the June docket, at which time we may be able to withdraw them. We're real close to having an agreement worked out at this point.

BENNY WAMPLER: The record will show there were no others. They are continued. Thank you.

TIM SCOTT: We can just stay up here and just keep doing that if you want.

(Laughs.)

BENNY WAMPLER: There might be some people that wouldn't be happy with that---.

TIM SCOTT: I think so.

BENNY WAMPLER: ---other than the Board members. The next item on the agenda is a petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties on Tracts 2 and 3, unit S-35, docket number VGOB-98-0915-0681-02. I'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz, Les Arrington and Anita

Duty.

KENNETH OSBORNE: Mr. Chairman, can we have just a second please, sir?

BENNY WAMPLER: I'm sorry? Sure.

(Off record.)

BENNY WAMPLER: Okay. We're back on record. We'll ask any parties that plan to speak to raise their right hand and be sworn.

(Witnesses are duly sworn.)

BENNY WAMPLER: Okay. You may proceed, Mr. Swartz.

MARK SWARTZ: I think this was continued from April and we put in the evidence with regard to balancing the escrow account and what the evidence was with regard to the percentages that were relevant to a disbursement and the dollar amounts as of the time it was balanced. The reason it was continued was for us to come back to this hearing with a signed split agreement...signed and notarized split agreement for everyone listed on Exhibit A. We have done that. We have copies for everyone. Having done that, our view is we're finished and we want a disbursement. We've got some copies that we could give to the Board. I think we've given Mr. Glubiack a set, but I'm sure that we've got some extra ones we can give. But we have...as you go

through them, you'll see that we have a signed split agreement from each of these people and it will continue to be the case as we go through the rest of these today.

BENNY WAMPLER: Okay.

(Anita Duty passes out copies of exhibits.)

PETER GLUBIACK: Mr. Chairman, if I might, I want to introduce myself, Peter Glubiack. While you're looking through the packet, let me give you a minute or two of why these individuals are here today and why they objected last week. I'm going to let them basically present it. I represent them in some other matters, but I volunteered to help them see if they can put their case on this morning. The matter involves essentially these three or four individuals who are going to testify and will testify that they did indeed sign a split agreement, but their testimony will be the split agreement they signed involved the O. H. Keene interest in these units and not any other interest. Now, the copy of the...an example, and you've got bunches of them in front of you will be what will...what will be said is the split agreement that they went to the Gas and Oil Board and signed had to deal with specifically with and was specifically in bold type their interest as the O. H. Keene Heirs. The confusion, and it is confusing, involved in this matter is they have several various interests in these

units. They have...there are certain of them that are the Linkous Horn Heirs and the O. H. Keene Heirs. There are a certain of them that are the Stilwell Heirs. There are a certain of them that are all three. What these people are going to testify today to is when they went to the Gas and Oil Board and signed the split agreements, the split agreements specifically stated it was their interest and not in this certain lands in Buchanan County, but rather their interest of certain lands as Heirs of O. H. Keene. Indeed, there are other matters going as the Linkous Horn and Stilwell Heirship go. But that's going to be their testimony. That's the confusion and that's why they're upset and that's why they're here this morning. The first individual I think who is going to testify is Patsy Moore. I believe she has been previously sworn and she can tell you her objection to the split agreement.

PATSY MOORE: Okay. When I got the agreement to sign from Mr. Bowman, I called him because I don't have much education and I called him and I asked him specifically if that was for the O. H. Keene property and he told me he...he assured me that it was only for the O. H. Keene, you know, the land...15 acres of land. Okay, we come to Mr. Wilson's office the day we signed, you know, for the royalty and Ms. Davis...Diane Davis, she told me...we asked her three

different times before we signed was this only for the O. H. Keene property and she assured us that that's what it was for. So, when I called Mr. Bowman back and I told him, I said, "Should I take this to a lawyer and have it read because I didn't understand." He said, "Oh, no," said, "there's no need to do that." Said, "It's only to keep your money out of escrow." That's what he said. I said, "Well, are you sure this only the O. H. Keene." He assured me again that it was for the O. H. Keene property.

So on the lease thing, it was for 15 acres of land, which we went and got the deed for the deed book and whatever it is for the O. H. Keene land and stuff. So, when we got these papers, they had it for the Linkous Horn Heirs. That's why we was objecting because we hadn't signed anything for the Linkous Horn. So, the papers I got at the last meeting, which I didn't really look at the names on them, when you all...that's the reason I kept bringing that up for the O. H. Keene because my papers is for the O. H. Keene, these right here. They are for the O. H. Keene.

PETER GLUBIACK: Let me stop you a second. I'm not sure we've got this...why don't you make sure you give your name.

PATSY MOORE: Oh, my name is Patsy Moore.

PATSY MOORE: And, Ms. Moore, it's my

understanding that you did, in fact, go and you did, in fact, agree Patsy Moore's interest...anything to do with the O. H. Keene property, you signed to split and you don't have any property with that?

PATSY MOORE: No...no problem at all.

PETER GLUBIACK: It's the other interest in the property as a Linkous Horn Heir or any other Heir---?

PATSY MOORE: Yeah.

PETER GLUBIACK: ---that you didn't sign for?

PATSY MOORE: The only one we signed was for the O. H. Keene and we was assured that that's what it was for.

PETER GLUBIACK: And did you read the first page? Did it say the O. H. Keene Heirs?

PATSY MOORE: It on the first page it had for the O. H. Keene property. It told where it was located. It was 15 acres of land and they wanted a split...a royalty split agreement.

PETER GLUBIACK: And you've seen this split agreement here, right?

PATSY MOORE: Yeah. We went back and picked...this is not the paper that we signed. This back page right here is my signature. It was on the contract that we got to sign. This...it was a five page agreement. It had on it just for the O. H. Keene. It had the

description and for the royalty split agreement only. They say we signed for a split agreement and a...something else. What was it? For the royalty split agreement and something else. But when I called Bowman back to see if he could send me the paper that I signed, he has---

PETER GLUBIACK: Now, who's Bowman? Tell us---

PATSY MOORE: Greg Bowman from CNX Gas or wherever he's at...in Bluefield there. But he said he didn't know of no other paper that had O. H. Keene on it. But that's why I read it, which I couldn't understand it myself and I called him back to make sure and that's what he told me that it was.

PETER GLUBIACK: So, that's...that's your objection. I'm going to move on because these people have a lot to do. Ma'am, would you introduce yourself and why don't you say---?

BRENDA JUSTUS: I'm Brenda Justus. I have the same...I signed for the O. H. Keene Heirs. Me and Patsy signed the same one. It read right on there O. H. Keene, 15 acres. We talked to Greg Bowman. I even went to his office. He had a notary public there that signed for the O. H. Keene. The paper...the copies that they sent us back don't even have a notary on it.

PETER GLUBIACK: Now, Ms. Justus, you have other

interest in the Linkous Horn and other interest?

BRENDA JUSTUS: I sure do.

PETER GLUBIACK: Was it...was it your intention to split all of your interest?

BRENDA JUSTUS: No. The O. H. Keene only.

PETER GLUBIACK: And you asked that question?

BRENDA JUSTUS: I asked that question specifically of Greg Bowman from the CNX Gas at the Bluefield office.

PETER GLUBIACK: You do not have any problem with CNX's petition with regard to the O. H. Keene and the split, you signed that?

BRENDA JUSTUS: I signed that one.

PETER GLUBIACK: Okay. Mr. Osborne.

RONNIE OSBORNE: I'm Ronnie Osborne. I signed the same agreement. Somehow, I got an agreement here with CNX and it's on record in Grundy. I signed Hurt-McGuire. But the record books in Grundy shows CNX.

PETER GLUBIACK: The split that you signed was with the Hurt-McGuire Trust.

RONNIE OSBORNE: I've got copies right here. This is...this is what's on record, CNX Gas Company. Right here is what I signed. It's Hurt-McGuire.

PETER GLUBIACK: Right. This is a lease---.

RONNIE OSBORNE: I don't know...I don't know

what---.

PETER GLUBIACK: ---and this is a split agreement.

RONNIE OSBORNE: I don't know what's going on. I just know I signed a split agreement with---.

PETER GLUBIACK: This is a lease---.

RONNIE OSBORNE: ---Hurt-McGuire. That is a lease and stuff on record down there. Look what and all it says here---.

PETER GLUBIACK: All right. Did you sign this?

RONNIE OSBORNE: No, I signed this one.

PETER GLUBIACK: So, it's your testimony there's a lease of record...a oil, gas and coal seam lease done on October of '04 between Ronnie Osborne and CNX Gas Company?

RONNIE OSBORNE: If I signed it...if I signed it, I signed it without me knowing, in my sleep or something, because I don't---.

PETER GLUBIACK: And it has Ronnie Osborne's signature?

RONNIE OSBORNE: Yeah, but it's a photographic copy. And it's---.

PETER GLUBIACK: So, it's your testimony you never signed this?

RONNIE OSBORNE: I never signed nothing with CNX Gas Company. I signed with Hurt-McGuire.

PETER GLUBIACK: The split agreement.

RONNIE OSBORNE: The split agreement.

BENNY WAMPLER: Mr. Glubiack, while he's talking, what we have here is...it does say...all of these say Hurt-McGuire.

PETER GLUBIACK: Those are the split agreement that say---.

RONNIE OSBORNE: Yeah, but this---.

PETER GLUBIACK: The thing...the document that---.

BENNY WAMPLER: And he's saying he signed that?

PETER GLUBIACK: ---Mr. Osborne is referring to is---.

RONNIE OSBORNE: Yeah, I signed this.

BENNY WAMPLER: Okay.

RONNIE OSBORNE: Yes, I did.

BENNY WAMPLER: All right.

PETER GLUBIACK: There's no...there is no dispute that these individuals, there may be others, but they're the ones here this morning who signed the split agreement with Hurt-McGuire Trust pertaining to any interest of the O. H. Keene Heirs their...their interest in the O. H. Keene Heir property. There is no dispute about that. The dispute they seem to be upset about is the fact that it pertains as a split agreement...at least on its face, it appears to be a

split agreement between them and the Hurt-McGuire Trust regarding any land that they may have any interest in Buchanan County and that is the essential issue here. Of course, Mr. Osborne has an objection saying he didn't sign the lease too. But that's...that's another matter and that's not really pertaining to this.

BENNY WAMPLER: It's not before the Board.

PETER GLUBIACK: Is there anyone else here in your family that has the same thing to say?

PATSY MOORE: There's three more of them that's signed the same thing we did, but couldn't get here today.

PETER GLUBIACK: Who are they?

PATSY MOORE: James Osborne, Darlene Osborne and Phyllis Osborne.

PETER GLUBIACK: And to the best of your knowledge, they have the same objection?

PATSY MOORE: The same objections and signed the same papers that we did, but it was only for the O. H. Keene property.

PETER GLUBIACK: In the interest of concluding this, again, you have no problem with the O. H. Keene split?

PATSY MOORE: No.

PETER GLUBIACK: Your problem is all the other land you may own interest in?

PATSY MOORE: Yeah.

PETER GLUBIACK: And you say you didn't sign it?

PATSY MOORE: That's true. Only the O. H. Keene property.

PETER GLUBIACK: That's all I've got, Mr. Chairman.

BENNY WAMPLER: Could you state those names again that you're representing that have---?

PATSY MOORE: James Osborne or Jim Osborne... James Osborne, it's the same one, Phyllis Osborne and Darlene Osborne and Joyce Lineberry. She's from...she's in North Carolina.

BENNY WAMPLER: And you know for a fact... they've talked to you and told you they---?

PATSY MOORE: And Mike Osborne, that's my brother too, Charles Osborne or Mike Osborne. I don't know how they have it listed. Yeah, what happened, when I got this, my brother Jim he came out to my house and he said he was going to go ahead and sign. I thought, well, I needed...you know, I needed to see if a lawyer would read it to me because I didn't understand what it was all about. Okay, my sister-in-law, I talked to them myself about it and they said they were going to sign it too. But we didn't realize that they would bring in Grandpa Horn in on this too. See this is two

grandpas. The O. H. Keene is one grandpa on one side of the county and the other one is over on the other side. So, when we got this paper that had the Linkous Horn on it then, you know, it threw us for a loop and we didn't know, you know, what...what was going on.

BENNY WAMPLER: Now, part of our documentation here shows Patsy and Clyde Moore.

PATSY MOORE: That's my husband.

BENNY WAMPLER: Okay. And you're speaking for him as well?

PATSY MOORE: Well, he's here.

BENNY WAMPLER: Okay. All right. Is that it?

PETER GLUBIACK: Mr. Chairman, that's the testimony from---.

RONNIE OSBORNE: Can I say one more thing? You... you had my name took off of the O. H. Keene. Remember about the mental problem---?

PATSY MOORE: The first day.

RONNIE OSBORNE: ---the first day that I asked you.

BENNY WAMPLER: Well, our attorney said you... when you objected to anything, we said we wouldn't make you do that. That's what we did.

RONNIE OSBORNE: Yeah. That's what I am still---.

BENNY WAMPLER: We said we weren't going to---.

RONNIE OSBORNE: My wife---.

BENNY WAMPLER: But if you signed...you know, that's different that you signing something subsequent to that.

RONNIE OSBORNE: Yeah, but I signed...I did sign---.

BENNY WAMPLER: Okay.

RONNIE OSBORNE: ---one paper.

BENNY WAMPLER: All right.

PETER GLUBIACK: I'm sorry, Mr. Chairman, I have one more person, I believe. Have you been sworn, Kenneth?

KENNETH OSBORNE: Yes, sir. Mr. Chairman, my name is Kenneth Osborne. I'm the designated spokesman for the Linkous Horn Heirs and I'm also a O. H. Heir. I did not sign any agreements. My approaching here today is to try to help them. It appears...you know, it appears that they were misled when they signed that believing this was only for the O. H. Keene. But my other issue is once again it appears that the O. H. Keene wells, W-34 and W-35, it appears that the escrowed funds have been held in suspension and the law states, you know, any change or any held...any moneys held from a well there's suppose to be a notification issue. Myself and I know my brother and sister never received any

notification. It appears that the escrowed funds have been held since March of '05. I contacted the Gas and Oil Board and they sent me a copy. It's handwritten on a notepad showing that the dates that the well was pumped, the only moneys that was deposited was interest payments.

BENNY WAMPLER: Now, you know that's not what we're discussing here right now.

KENNETH OSBORNE: No, sir. I understand that's not what we're discussing right now. I'm just explaining my function of being here today.

PETER GLUBIACK: Why don't you---?

BENNY WAMPLER: We would have to take that up---.

PETER GLUBIACK: We withdraw that and have them testi...he can state later in the comments.

BENNY WAMPLER: When the open comment period, right.

PETER GLUBIACK: We have enough on the table with the other matters.

BENNY WAMPLER: Right.

PETER GLUBIACK: I believe that's all that wants to testify right now, Mr. Chairman.

BENNY WAMPLER: Mr. Swartz.

MARK SWARTZ: We've submitted a one and a half page agreement signed by everyone. Their signatures are

notarized. It is a really simple agreement. It directs us as the operator to disburse these funds. That's why we're here.

BENNY WAMPLER: Is it your contention with this that it includes everything in the Hurt-McGuire Land Trust?

MARK SWARTZ: It says what it says. I mean, it says "The parties" which would be the folks that are complaining today on Hurt-McGuire, "hereby agree that as to any royalties payable for the production of coalbed methane produced from the lands wherein the party of the first part" which is Hurt-McGuire owns the coal, "and the party of second part owns the gas, such royalties will be 50/50." It says, you know, "any lands". I'm not sure if all of these people, but certainly the people that I began listing, they all signed a lease, which is a completely different agreement. We've provided you all with a copy of that. That lease was with CNX and not Hurt-McGuire. It covers some particular, you know, tract 15 acres. That's not really an issue today. But, you know, we have two signed agreements, one with Hurt-McGuire, which we have a copy of and one lease that they signed with CNX. But the disbursements are being made pursuant to the split agreement.

BENNY WAMPLER: Mr. Wilson, do you have anything?

BOB WILSON: Yes, sir. As the office of the party that's going to get all of the phone calls regardless of what is done here today, I would like to make a couple of statements about the way the Board has handled disbursements in the part. I think at any time there has been any question of any sort as to whether money should be disbursed, I think the Board has strained very hard to protect the money until such time as any disputes might be settled. If there is a dispute relative to these folks as signing an agreement and what they meant when they signed that agreement, I don't think the Board can decide that. I think that's going to have to be decided in a different venue. My only comment would be that to be consistent with the actions of the past where we have gone out of our way to make sure that the money is held until there are no disputes, it would seem to me that if you have people sitting there saying we didn't want this money, we didn't sign for it, that constitutes a dispute that maybe needs to be handled outside of this room.

BENNY WAMPLER: In your opinion, would that be for the entire...all of the parties or just those parties that have appeared here to object?

BOB WILSON: Again, that would be the Board's call. It's my understanding that...again, this is part of

last month's testimony, Mr. Osborne claims to speak for the Linkous Horn Heirs and, I believe, he stated last month that the Linkous Horn Heirship does not want its money disbursed under a split agreement because they think they have a claim on the entirety of the fund. Is that...did I understand that correctly?

BENNY WAMPLER: But that doesn't deal with the Thomas Stilwell Heirs that we have here.

BOB WILSON: Correct. I'm speaking purely in terms of the Linkous Horn Heirs. I don't...I don't know that I heard anything---.

PETER GLUBIACK: My understanding is...I agree with what Mr. Wilson said, Mr. Chairman. My understanding is that that is in fact the case. We're not...Mr. Swartz is able to make this a little easier. There appears to be the people who signed as the list...on the units for O. H. Keene, there appears to be no dispute. They signed a split agreement and a lease. I think the Board could act on that. I would certainly concur with Mr. Wilson's judgment when there has been a dispute before, the Board has decided to let the dispute be settled. I think there's no question...if nothing else is clear, it's clear that there is a dispute about the Linkous Horn disbursement.

BENNY WAMPLER: Except as it relates to the O. H.

Keene property?

PETER GLUBIACK: Sir, I'm sorry?

BENNY WAMPLER: Except as it relates to the
O. H. Keene property as I understand it?

PETER GLUBIACK: Exactly. Yes.

PATSY MOORE: Could I speak again? The last time
you remember we asked you if that O. H. Keene, which is on
one side of the hill or the mountains, there's like seven or
eight or maybe twelve mountains between the Linkous Horn and
you said that it wouldn't go all over the county, you know,
for the 15 acres of land which is specifically 15 acres and
we got the deed for the O. H. Keene.

BENNY WAMPLER: It would only deal...what I was
talking about is it will only deal with what we have before
us. It doesn't deal with---.

PATSY MOORE: Yeah. Well, that's---.

BENNY WAMPLER: ---things that are not before the
Board.

PATSY MOORE: Well, that's what I...what we were
talking about.

BENNY WAMPLER: Okay.

BOB WILSON: And before the...again, for the
record, Mr. Chairman, the O. H. Keene split agreement has
been honored. That...those...that disbursements has been

completed. So, the O. H. Keene tract I don't think is an issue of any sort.

PATSY MOORE: No.

BENNY WAMPLER: Need...the Board needs to take no action with that, is that what you're saying on that?

BOB WILSON: Yes, sir.

BENNY WAMPLER: We're here...we would either... if we acted on what we've been presented and in accordance with what you said, we could approve the Stilwell Heirs, but hold on the Linkous Horn Heir disbursement?

BOB WILSON: In my opinion, yes, sir.

BENNY WAMPLER: I mean, that was your suggestion.

RONNIE OSBORNE: Can I speak? On the O. H. Keene Heirs, did you take my name off and they don't have to send me checks or---?

BENNY WAMPLER: I don't know.

BOB WILSON: Yes, sir. Mr. Osborne was not part of the disbursement under the O. H. Keene because of actions the Board took during that---.

BENNY WAMPLER: Per his request, right.

RONNIE OSBORNE: That's what I was wondering.

BENNY WAMPLER: Okay.

RONNIE OSBORNE: Some of them got checks and I didn't. I was just wondering why I didn't and if, you know,

I was going to be included.

BOB WILSON: No, sir. You didn't get a check because the Board removed your name from the list on your request.

RONNIE OSBORNE: That's all I wanted to know.

BENNY WAMPLER: Okay. Board members, do you have questions?

MARY QUILLEN: I just want to be certain, Mr. Chairman, that I understand. The only thing that we are to make any kind of ruling on here is just bottom...this bottom group right here that's the Linkous Horn Heirs.

BENNY WAMPLER: Well, Mr. Swartz is requesting that it all be disbursed based on---.

MARK SWARTZ: Well, I mean, to sort of give like a conclusion---.

BENNY WAMPLER: Yes.

MARK SWARTZ: ---the statute says to get money out of escrow you either need to show up with an agreement or you need to show up with a Court judgment. I mean, that's what the statute says. You know, Hurt-McGuire is not here. But, you know, we certainly know that they feel like they have a written agreement and we've brought it here. In the past, and you're right, you know, that's what happened in the past, Mr. Wilson. I mean, you know, we objected at that

time on behalf of Hurt-McGuire because frankly we felt that they had under the statute, you know, showed up in effect with a written agreement and we're requesting their money and, you know, my spin is slightly different than yours. Obviously, the last time I expressed this it didn't carry the day. But, I mean, I think Hurt-McGuire might...you might see them again if this is what happens today. But, you know, when we look at deeds generally, your view is if the Deed seems to be clear we're not going...you know, we're going to take it at face value and we're going to, you know, act on, you know, whatever the operator is here in terms of relying on that deed or whatever. I mean, to me this is a really simple agreement and it says what it says and it says that covers everything. I mean, to the extent Hurt-McGuire has an interest it's covered to the extent these folks have an interest it's covered. I think...you know, my point would be that you are affecting Hurt-McGuire's interest when you do nothing. They have shown up with one of the two statutory methods to get money out of escrow. I guess my final comment would be, although I am, you know, incredibly reluctant make...you know, to ever confess that I've made a mistake, particularly to my ten year old, you know, sometimes, you know, we make mistakes and on reflection, you know, we might want to reconsider. So, I

not sure that what you have done in the past...I know that we didn't come in because we weren't prepared for it when this happened once before. We didn't come in with split agreements, you know. This time, you know, you continued it because we could...you know, I think...my impression was you wanted to deal with this a little more completely than we had the last time, which is why we're here again this time.

BENNY WAMPLER: Right.

MARK SWARTZ: And so we're here with split agreements. I think they say what they say. They're pretty simple. I understand we have a group of people who are (inaudible) saying that someone lied to them when they signed the agreement and they didn't understand it. I mean, that's in a nutshell what they're telling you. My response is, you know, you've got an agreement that's straight forward and it says what it says. In the past, I think you have generally gone with those kinds of agreements, whatever they are, and I would encourage you on Hurt-McGuire's behalf, I guess, although I'm not their lawyer, you know, but they certainly have an interest here to disburse these funds. I felt like I needed to say that because they're, you know, one of our lessors.

PATSY MOORE: Could I speak one more time?

BENNY WAMPLER: Mr. Glubiack, do you have any

closing arguments?

PETER GLUBIACK: Yes, I do. In response to Mr. Swartz's argument, it is no question that that's exactly what happened. The Board continued it to get further documentation. You got documentation. However, you have essentially this morning testimony of three witnesses that they didn't sign what is in front of you. I think that if Mr. Swartz is going to quote the statute, the other statute is pretty relevant here. It says, when a conflict regarding ownership arises, the Board, you know, shall do one of the two things. Shall escrow until you get...you get some documentation that you can rely on or you get a Court judgment. In this case, I think it's clearly a conflict. I don't know. I mean, I've got three clients here that testified that they never signed what's in front of them. I mean, you've got that in front of you. It appears that that's not a clear conflict set by sworn testimony, I don't know what is. So, as Mr. Wilson said, and I certainly strongly agree, let them duke it out in the Courts or let them take it and resolve the dispute and come back here. But right now you clearly got a conflict and I would argue it's the Board obligation and duty just to simply escrow...continue escrowing it and let them come back when it's resolved.

BENNY WAMPLER: Go ahead, ma'am.

PATSY MOORE: That's what I was aiming to say. With this agreement, the one they sent us is entirely different. I mean, I do agree that this right here is the last page of the first agreement that we signed, but this has nothing to do with what we signed. It had the O. H. Keene, the 15 acres of land as a royalty split, and it mentioned Grandpa Keene's name on there three or four times. So, when we went back to try to locate that, which we should have made a copy of when we first got it and when I went back to get it it's entirely different than what we signed. That's what I can't understand. Why would they change this and send us a different agreement that we never saw before?

BENNY WAMPLER: Well, you definitely need to keep a copy of anything you sign---.

PATSY MOORE: Well---.

BENNY WAMPLER: ---because what we have here is a notarized statement from everybody before the Board. Any questions from members of the Board?

BILL HARRIS: Mr. Chairman, let me just ask one--.

BENNY WAMPLER: Mr. Harris.

BILL HARRIS: ---and I guess this is just for my information. The royalty split agreement that we have in front of us, under the witness part it says, "Whereas, the

party of the first part owns certain coal lands in Buchanan County, Virginia and the party of the second part..." or whatever, is that ever more specific than that? I guess this is for Mr. Swartz, I guess. Is it ever more specific than that? I mean, do you all ever say---

MARK SWARTZ: In the split agreement?

BILL HARRIS: Yes. In that...on that first page.

MARK SWARTZ: The only Hurt-McGuire split agreements that I ever seen are that general and they're intended to be.

BILL HARRIS: Well...so, this isn't a standard---

MARK SWARTZ: No. This is---

BILL HARRIS: We don't see these usually.

MARK SWARTZ: Right.

BILL HARRIS: We hear about them, but not---

MARK SWARTZ: Yeah. I mean, this is a form that Hurt-McGuire wants to use.

BILL HARRIS: So, this is from them rather than from your---

MARK SWARTZ: Right.

BILL HARRIS: ---office or from---

MARK SWARTZ: I can't...I mean, the other ones that they get may be like this, but this is something that Hurt-McGuire wanted us to send out, you know, with the

leases and as an option.

BENNY WAMPLER: Your EE then spells out what percentages and everything.

KENNETH OSBORNE: Mr. Chairman---?

MARK SWARTZ: Yes, yes.

BENNY WAMPLER: So, the EE...do you follow what I'm saying?

BILL HARRIS: Yeah. I guess, what I'm...when it says "certain coal lands", I think that's the discussion that is in front of us now. That's not very specific. I just wondered if that was a standard agreement, if that language was standard.

MARK SWARTZ: For Hurt-McGuire it is.

BILL HARRIS: It is?

MARK SWARTZ: Yeah. Now, if you'll notice in the lease it's much more specific, the document that follows, because, you know, I think it's pretty obvious that this split agreement was intended to cover everything without getting too detailed and making it a lot of work. If you agreed to split 50/50, you were going to do it everywhere. I mean, that's why it's so simple.

BENNY WAMPLER: Other questions from members of the Board?

MARY QUILLEN: Mr. Chairman, I have a question.

Again, I just need to clarify this because I don't think I quite understand. That if this whole...the Hurt-McGuire Land Trust, there are two different groups involved in this and the Stilwell Heirs have no objection to any. Can these be separated into two separate actions and the group which is clearly stated here at the bottom, which are the Horn Heirs, theirs would be resolved at another level or would---?

JOSE SIMON: Hold those in escrow and---.

MARY QUILLEN: Right. And hold those in escrow---.

JOSE SIMON: ---only distribute the ones that aren't in question?

MARY QUILLEN: Can these be split?

BENNY WAMPLER: Yes. In my opinion, of course the attorneys are here, it's my opinion they could be. We have heard no dispute as to the money. So, therefore, it's not the...it's not the money that's in dispute. It's whether or not there has been an agreement for disbursement.

MARY QUILLEN: Right.

BENNY WAMPLER: So, in my opinion, the answer to that is yes they could be split and voted on.

MARY QUILLEN: And this would be Mr. Swartz's---.

MARK SWARTZ: I don't really have a dog in the

hunt here.

BENNY WAMPLER: He wants the whole thing.

MARK SWARTZ: We've paid the money into the escrow account.

MARY QUILLEN: Right, right.

MARK SWARTZ: So, I mean, we don't even have the money. We're the operator of the unit and the Board tells us...you know, this is a dirty job and they gave it to us. They said if there's going to be a withdrawal from escrow, you have to come in and you have to do the accounting---

MARY QUILLEN: Right.

MARK SWARTZ: ---and you have to do the work. So, you know, I would love it if they picked Mr. Wilson do this job, you know, and then he could---

(Laughs.)

MARK SWARTZ: But that's why I'm here. We really...you know, we just...now, on the other hand with regard to Hurt-McGuire, obviously, they're not going to be happy about that kind of an outcome, which is okay. You know, they have their own lawyers who are not me and so forth.

MARY QUILLEN: Right.

MARK SWARTZ: But, you know, I don't...we don't---

MARY QUILLEN: That's not the point. Who would object to this?

MARK SWARTZ: We don't really have...CNX really does not have a strong...you know, we don't have an interest in the outcome here. It's just we need...we would like to get some closure so we don't have to keep coming back on this. But other than that, no. So, you know, I'm not going to argue with some outcome that you feel is reasonable. But I think you need to know your options.

MARY QUILLEN: But it seems like that this large group is being...their funds are being withheld because of this smaller group that is objecting---.

BENNY WAMPLER: If we didn't pay that out, that would be true, yes.

MARY QUILLEN: Right.

MARK SWARTZ: Right.

BENNY WAMPLER: That would be true. So, any other questions?

(No audible response.)

BENNY WAMPLER: Is there a motion?

JOSE SIMON: There's a motion, at least from my part, to release the funds on the parts that are not in dispute and continue escrowing those that are in dispute until further resolution.

BENNY WAMPLER: For clarification, is that specifically to disburse the Thomas Stilwell Heirs and withhold the Linkous Horn Heirs?

JOSE SIMON: Yes.

BENNY WAMPLER: Okay. That's a motion. Is there a second?

BILL HARRIS: Second.

BENNY WAMPLER: There is a second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Thank you.

PETER GLUBIACK: Thank you, Mr. Chairman.

BENNY WAMPLER: Okay. The next item on the agenda is a petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties on Tracts 3 and 4 of unit S-36. This is docket number VGOB-98-0324-0626-04. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz, Anita Duty and Les Arrington. This was also continued with exactly the same issues.

BENNY WAMPLER: Right.

MARK SWARTZ: And we've obviously brought the agreements.

PETER GLUBIACK: If I'm not mistaken, Mr. Chairman, the next two and there may be others that want to talk, but the same issue applies to the next two units and I'd ask...you've already heard all the testimony and all the folks testifying. I'd ask that the Board presumably adopt the same motion and resolution of the others. Again, no argument---.

BENNY WAMPLER: On behalf of the Linkous Horn Heirs.

PETER GLUBIACK: On behalf of strictly the Linkous Horn Heirs who are the individuals who testified.

BENNY WAMPLER: Okay.

PETER GLUBIACK: Now, I don't---.

BENNY WAMPLER: Sir, you need to state...state your name for the record.

DANNY McCLANAHAN: Danny McClanahan. I've got a claimant on some of that Linkous Horn Heirs land on S-36 and T-36. They didn't...I am a claimant in there.

BENNY WAMPLER: Let me stop you and get you sworn in here.

(Danny McClanahan is duly sworn.)

BENNY WAMPLER: Okay. You can go ahead and have a seat. We're just dealing with S-36 right now. We'll have to get you again on the next one.

DANNY McCLANAHAN: Yes, sir. I'm a claimant on that. At one time, they showed that I was an owner, but they changed it to being a claimant. But they were trying to disburse that money there without sending me proper notification.

BENNY WAMPLER: Okay. State your full name again.

DANNY McCLANAHAN: Danny Lee McClanahan. I brought this to Mr. Wilson's attention the other day and he...he kind of agreed that they were trying to disburse it on Tract 3, which has got all of the Tracts 3A, B, C, D and all of that in which I'm a surface owner, they say, but I'm a claimant on the oil and gas on that property. They didn't send...they failed to send me notification.

BENNY WAMPLER: I'm letting them dig through their records here to respond.

(Anita Duty and Mark Swartz confer.)

DANNY McCLANAHAN: I was under the understanding, you know, they was supposed to, you know, notify me too when

they disbursed them funds if they tried to because I was a claimant and there haven't been no...nothing decided in that yet between us.

MARK SWARTZ: Okay, Anita, is Mr. McClanahan in Tract 3?

ANITA DUTY: No.

DANNY McCLANAHAN: Yeah, I am.

MARK SWARTZ: Let me---.

DANNY McCLANAHAN: There's no 3 on that map.

MARK SWARTZ: Sir---.

COURT REPORTER: One at a time, please.

BENNY WAMPLER: Yes.

MARK SWARTZ: ---I didn't interrupt you.

BENNY WAMPLER: Mr. Swartz, let me do the correcting, okay.

MARK SWARTZ: Is Mr. McClanahan in Tract 3?

ANITA DUTY: No.

MARK SWARTZ: Are you disbursing on Tract 3 or proposing to disburse from Tract 3?

ANITA DUTY: Yes.

MARK SWARTZ: Okay. Is Mr. McClanahan in Tract 3C?

ANITA DUTY: Yes.

MARK SWARTZ: Are you requesting a disbursement

from Tract 3C?

ANITA DUTY: No.

MARK SWARTZ: Is Mr. McClanahan in Tract 3C-1?

ANITA DUTY: Yes.

MARK SWARTZ: Are you requesting a disbursement from Tract 3C-1?

ANITA DUTY: No.

BENNY WAMPLER: Do you understand what they're saying? They're not requesting disbursement from that tract.

DANNY McCLANAHAN: Well, I called and asked them to send me a map of the property that they were disbursing it on and the map they sent me, there is no 3 on there. I'm thinking the Linkous Horn is the number 3 and everything that's A, B, C, the Linkous Horn Heirs is claiming the gas on that, which I fall in that number 3. On that map, there is no 3. No 3 whatsoever. If you can show me a 3 on there, I'll get up and leave.

MARK SWARTZ: Did you deal with phone call from Mr. McClanahan?

ANITA DUTY: Yes.

MARK SWARTZ: Did he ask you to do something?

ANITA DUTY: Yes.

MARK SWARTZ: What did he ask you to do?

ANITA DUTY: He asked me to prove that we weren't disbursing the tracts that he was involved in.

MARK SWARTZ: Did you send him some materials?

ANITA DUTY: Yes.

MARK SWARTZ: What?

ANITA DUTY: I sent him a copy of the Board order and I highlighted the tracts that he was involved in and I told him which tracts that were part of the disbursement for today.

MARK SWARTZ: So, you sent him documentation showing him where he was and where the folks who were getting disbursements were?

ANITA DUTY: Yes.

MARK SWARTZ: And, I assume, that those were different on the maps that you sent him and on the Board order---?

ANITA DUTY: Yeah.

MARK SWARTZ: ---when you colored them? Did you color them?

ANITA DUTY: Yes. I highlighted them.

MARK SWARTZ: Okay.

BENNY WAMPLER: What...is the plat what you sent him?

ANITA DUTY: I sent him the Board order, the last

Board order. I highlighted on the tract ID which tracts belongs to him and I highlighted the corresponding tract on the plat.

BENNY WAMPLER: Did it have 3 on it...3C? That's his concern.

MARK SWARTZ: I didn't highlight his...I mean, that 3C is not what we're disbursing. It's just 3.

DANNY McCLANAHAN: There's no 3 on there, sir.

ANITA DUTY: 3C is a separate accounting tract.

BOB WILSON: Mr. Chairman---?

BENNY WAMPLER: Yes.

BOB WILSON: ---may I---?

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: ---interject something here? Mr. McClanahan came to the office the other day, so I might be able to shed a bit a light on this. The plat in the pooling order for unit S-36 shows on the tract identification sheet a Tract 3, which is the Hurt-McGuire Trust and they are the co-owners. The Linkous Horn Heirs are shown as all minerals except coal. There is, as Mr. McClahanan said, the best I can find no Tract 3 on the plat itself. That is broken up into surface tracts. Tract 3A, 3B, 3C and et cetera. The plat shows Tract 3C and Tract 3C-1 broken out from Tract 3. It show Danny McClanahan as an oil and gas claimant on both

of those properties.

BENNY WAMPLER: On what now, 3C?

BOB WILSON: On 3C and 3C-1.

BENNY WAMPLER: Okay.

BOB WILSON: It appears, and maybe somebody else can straighten this out, I contacted CNX after my conversation with Mr. McClanahan. It appears that what really should be on the petition from disbursement under the Linkous Horn Heirs would be Tracts 3B, 3D and et cetera, but not 3C and 3-1. Tract 3, it appears from the plat in the tract identification sheet, is a material tract or a coal tract probably that is then broken up into sub-tracts including those that Mr. McClanahan has a claim on. Now, if the Board follows the previous docket item and excludes the Linkous Horn Heirs from this particular application, this is going to go away anyway. It's not going to matter.

BENNY WAMPLER: I understand...I understand that. But do we need to have a new plat submitted is what I'm trying to get at this point since we're dealing with a record here. Do we need a plat that shows all of these tracts?

BOB WILSON: No, sir. I think...again, if I understand correctly, I think what needs to be...to happen is the application needs to break out the tracts that do not

include Mr. McClanahan's claim under Tract 3.

BENNY WAMPLER: And that's what you...what you testified to?

ANITA DUTY: Right. And the only reason those are broken out into A, B, Cs, that's just the surface. I mean, we could exclude surface owners from the plat and it would just be 3.

BOB WILSON: Excuse me, Mr. Chairman. Tracts 3C and 3C-1 are not broken out as surface tracts. They're broken out as material tracts as well.

ANITA DUTY: Because of the claim.

BOB WILSON: Exactly.

MARK SWARTZ: Because he made an adverse claim.

ANITA DUTY: Right.

BOB WILSON: Yes. Right, exactly. This is one that the Board visited, I think, several times and not only was...were there multiple claimants on the oil and gas estate, there was a dispute on the boundary and all of that was thrown into escrow.

BENNY WAMPLER: So, as I understand it, what you...what you have is showing Mr. McClanahan on Tracts 3C and 3C-1 within Tract C.

BOB WILSON: Within Tract 3.

MARK SWARTZ: Within Tract 3.

BENNY WAMPLER: I mean Tract 3, I'm sorry.

BOB WILSON: Correct.

BENNY WAMPLER: And does that confirm what you have?

MARK SWARTZ: Right. And we're showing him as a claimant to the minerals and not a surface owner, which is all the other pieces of 3 on the plat, because he---.

BENNY WAMPLER: And irregardless of that, that's not before this Board today for disbursement?

MARK SWARTZ: Correct. Partly because this is ...as Mr. Wilson reminds me, there's a boundary dispute, which has not been resolved as far as I know.

BENNY WAMPLER: Does that clarify things for---?

DANNY McCLANAHAN: No, not really. There never was a boundary dispute. They made the boundary dispute... well, Pocahontas Gas...the first application of the maps that sent me has got my property. The first one has got it wrong. The second has got it right. Then somewhere down in March or whatever day went to saying it was my fault that the escrowed funds withheld because I was disputing the boundary. I have the maps that they sent me and everything that shows that had...1998 had the map right and they come back in a later date in '99 or 2000 and said that I was...they went to said it had never been surveyed. I've

got maps where they had people survey it and everything, you know. But like I said, 3 they didn't...they sent me the map showing that they was disbursing the money on Tract 3 in which that included me. They didn't send me notification or nothing, you know. There was no 3 on that plat map.

BENNY WAMPLER: I believe you on that. But they're testifying they're not disbursing any money that affects your interest today.

DANNY McCLANAHAN: If you'll look at the percentages on there, yes it does have me in there. Yes, it sure does. The overall percentages is so many for that 31% or something like that. If you'll go to adding them up and mine is right in there. 27...27.44 acres is in Tract 3. Then if you go to adding them all up, my land is in that Tract 3.

BOB WILSON: Mr. Chairman.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: I think we're revisiting old disputes here. If, as I understood from the previous docket item, the lands that involve the Linkous Horn Heirs are going to be excluded from the application, then this is not an issue here---.

BENNY WAMPLER: We understand that.

BOB WILSON: ---because none of it is going to be.

So, all of this can go away.

DANNY McCLANAHAN: I still don't want them to exclude me from notification on these things though like they did in this one right here. I mean, I...if I hadn't had a neighbor that was kind enough to show me they was disbursing that money, I wouldn't have been aware of it and it would have been gone.

MARK SWARTZ: We only noticed the people whose money we're disbursing and who have signed agreements that we're relying on. Since we're not disbursing his money, the reason they're two tracts, 3C is a tract he claims as a surface owner that he also owns minerals. Tract 3C-1 is a boundary dispute tract where there's a boundary dispute between Mr. McClanahan and his neighbors. We're not disbursing any of that money. So, not only did we not notify him, we didn't notify anybody else in those two tracts because that money is not going anywhere. That's how we noticed.

BENNY WAMPLER: Well, that's how you should notice for disbursement.

MARK SWARTZ: But I just wanted you to do that's...that's how we do that.

BENNY WAMPLER: Sure. Okay.

DANNY McCLANAHAN: But like I say, it's my

contention though...they send me map though saying they're disbursing money on 3...Tract 3. The map has clearly...if you want to look at it, it ain't got no 3 on it nowhere. So, that's...that's my contention that that's part of my land. Like I said, if you add the percentages up it does include my property. There's no 3 on there anywhere.

BENNY WAMPLER: Well, there's 3s all over it.

MARK SWARTZ: Right.

DANNY McCLANAHAN: You've got 3As and 3Bs, but there's no 3 itself.

BENNY WAMPLER: Well---.

DANNY McCLANAHAN: Yeah, with my property added in, it adds up to the 27 acres that they was going to try to disburse.

BENNY WAMPLER: Those are the...did you need to see that? I'm sorry.

BILL HARRIS: No, no, I looked at it.

BENNY WAMPLER: Those are the components of 3, the A, B, C and all of those. We have...I think we have clear testimony that the plan for disbursement doesn't include the lands that you claim interest in.

DANNY McCLANAHAN: Like I say, I didn't do a lot of figuring. But you figure it up there and like I say, the 3 includes the 27 acres. It does include my property if you

go to adding it up.

BOB WILSON: Mr. Chairman, again---.

MARK SWARTZ: Well, you know---.

BOB WILSON: ---for the benefit of Mr. McClanahan, we have gotten testimony...the Board has gotten testimony that those tracts will not be included. If this were approved for disbursement, no order would be issued by this Board that included those tracts. It's covered because it has been into testimony.

BENNY WAMPLER: Right. Mr. Swartz, did you have a comment?

MARK SWARTZ: No, just the same response.

BENNY WAMPLER: Okay. Any questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

MARY QUILLEN: Mr. Chair, I would like to make the motion that we proceed with the same divisions that with the previous group that the...since there are no objections from the Stilwell Heirs, that that money be disbursed from escrow and the Horn Heirs this would be continued to be held in escrow until the dispute is resolved.

BENNY WAMPLER: I have a motion. Is there a second?

JAMES MCINTRYE: Second.

BENNY WAMPLER: Second. Any further discussions?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Thank you.
The next item on the agenda is a petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization for direct payment of royalties on Tract 2, unit T-35, docket number VGOB-98-0421-0695-02. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Anita Duty. We were here last month on this one. This only involves the Thomas Stilwell Heirs, correct, Anita?

ANITA DUTY: Yes.

MARK SWARTZ: So, I think we know where we probably are on this one.

BENNY WAMPLER: Do you have any other testimony?

MARK SWARTZ: No. I think we did this the last time as well.

BENNY WAMPLER: Is there a motion from members of the Board?

MARY QUILLEN: Mr. Chair, I make a motion that we adopt the same policy as the previous for the Stilwell Heirs that escrow be disbursed...funds be disbursed.

BENNY WAMPLER: A motion to disburse these funds.

JAMES MCINTRYE: Second.

BENNY WAMPLER: And a second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: Those are disbursed. Next is a petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization of direct payment of royalties on portions of Tracts 2A, 2G, 3B, 3C of unit T-36. This is docket number VGOB-98-0324-0625-04. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Anita Duty. We've got some revised exhibits on this one.

(Anita Duty passes out revised exhibits.)

PETER GLUBIACK: It's my understanding that T-36 also involves the Linkous Horn Heirs. I ask the Board to adopt the same as we did before.

BENNY WAMPLER: And for the record, that was Mr. Glubiack asking the Board of hold the disbursement for the Linkous Horn Heirs on their behalf.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, since we were last here on T-36, did you make some revisions with regard to Exhibit A, the tract by tract escrow calculations?

A. Yes.

Q. And what...what has changed when we compare last month's exhibit to this one?

A. On Tract 2G, the fractional interest of...I think it is...we previously had that listed as Danny Ball and it's Myrtle Ball all the way down to Danny Ball. We changed the fractions. We had it divided incorrectly. We had a call from one of the Heirs and he supplied information

to us that proved that we had that wrong.

Q. Okay. So, the first one, two, three, four, five people as opposed to the Myrtle Ball, widow of Danny Ball, their fractional interest has changed, if you compare this version of Exhibit A to last months.

A. Yes.

Q. Okay. And, again, we've got down at the...we've got three sets of folks here. We've got the Thomas Stilwell Heirs at the top and the Albert Ball Heirs sort of in the middle and then at the bottom the Linkous Horn Heirs, correct?

A. Yes.

Q. You previously testified with regard to the percentages and the dollar amounts and the accounting, do you recall that?

A. I don't think we did.

Q. Okay. Well, let's do that then. Okay, what...what records did you review to do Exhibit A?

A. I compared the bank's records with the bookkeeping company that sends our royalty payments into escrow to make sure that the amounts were correct?

Q. Okay. When you say the bank, is that the escrow agent?

A. Yes.

Q. Okay. And the bookkeeping company, is that contractor that CNX hires to do the royalty accounting---?

A. Yes.

Q. ---so they actually work for you? You compared your records to the escrow agent's records?

A. Yes.

Q. And when you made that comparison, what did you discover?

A. The accounts balanced.

Q. Okay. So, you...the escrow agent picked up every deposit that you thought you had made?

A. Yes.

Q. And then you had to adjust the numbers for interest and charges of the bank?

A. Yes.

Q. And those reflected in their records?

A. Yes.

Q. Okay. And when you do this normally, you do as of a date. Do you recall what the date was?

A. February the 28th, 2006.

Q. And presumably there has been money deposited since then?

A. Yes.

Q. And there will continue to be some money

deposited perhaps before even an order got entered?

A. Yes.

Q. Are you asking that the disbursements from the bank or the escrow agent be driven by the percentages as opposed to the dollars?

A. Yes.

MARK SWARTZ: That's all I have, Mr. Chairman.

BENNY WAMPLER: Any questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

JAMES McINTRYE: Mr. Chairman, motion to disburse the funds to the Thomas Stilwell Heirs and then to withhold disbursement of funds of the Linkous Heirs and disbursement for the Trust of the Albert Ball Heirs.

DONNIE RATLIFF: I second that.

BENNY WAMPLER: The motion is second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by---.

WILMA HALE: I haven't been sworn in, but I would like to ask a question.

BENNY WAMPLER: Well, we'll need you...we'll need you to do that before we vote then. Tell us your full...

raise your right hand.

(Wilma Hale is duly sworn.)

COURT REPORTER: You need to state your name, please.

WILMA HALE: Wilma Hale. I am one of the Albert Heirs, Mr. Chairman.

BENNY WAMPLER: Okay.

WILMA HALE: I would like to ask a question. Where the others, the Linkous Horn and some of the others are in dispute over the split, could we, the ones that have agreed and our split agreement is correct, can we receive our royalty and let the others stay in escrow for these other people?

BENNY WAMPLER: That's...that's what we're about to vote on right now---.

WILMA HALE: Okay.

BENNY WAMPLER: ---that we would disburse that money to the Albert Ball Heirs and the Thomas Stilwell Heirs and hold the money for the Linkous Horn Heirs.

WILMA HALE: Okay.

BENNY WAMPLER: So, the other would be disbursed if this...if this order is finally approved. We have a motion and a second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. The next item on the agenda is a petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization of direct payment of royalties on portions of Tract 1B of unit 36. This is docket number VGOB-98-0421-0648-01. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Anita Duty.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, who do you work for?

A. CNX Gas Company.

Q. Did you prepare Exhibit A?

A. Yes.

Q. What did you...what did you do to prepare that exhibit?

A. I compared the deposits that we had sent to the escrow agent with our records.

Q. Okay. And when you did that, what did you determine?

A. All...all the funds were there and the account balanced.

Q. Okay. And have you listed on Exhibit A, folks that have signed split agreements?

A. Yes.

Q. And are you proposing that the funds be disbursed as described in your Exhibit A?

A. Yes.

Q. This was...this Exhibit A account balance was as of what date?

A. February the 28th.

Q. Okay. And the balances would have probably changed since then?

A. Yes.

Q. So, when the escrow agent disburses these funds, what...what should they use, the percentage or the dollars?

A. The percentage.

MARK SWARTZ: That's all I have, Mr. Chairman.

BENNY WAMPLER: Any questions from members of the

Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

MARY QUILLEN: Mr. Chair, I make a motion that the funds be disbursed to the Stilwell Heirs.

BENNY WAMPLER: Okay. Is there a second?

JAMES MCINTRYE: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. The next item on that agenda is the corrected testimony from CNX Gas Company, LLC regarding the previously pooled unit V-8. This is docket number VGOB-06-0418-1615. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Les Arrington.

(Anita Duty passes out exhibits.)

BENNY WAMPLER: Okay. The record will show no others. You may proceed.

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, would you state your name for us, please?

A. Leslie K. Arrington.

Q. Who do you work for?

A. CNX Gas Company, LLC.

Q. Okay. Now, you're here to offer a corrected exhibit with regard to ownership information pertaining to V-8?

A. Yes. The Exhibit A, page two.

Q. Okay. And have you provided the Board with a copy of that with a revision date as of 4/21/06?

A. Yes, we have.

Q. And what's being corrected, the interest to be pooled?

A. Yes, it is.

Q. And what are the correct numbers?

A. We're seeking...we were seeking to pool 4.075% of the coal interest and 2.17...1792% of the oil and gas interest.

MARK SWARTZ: That's all I have.

BENNY WAMPLER: Just for the Board's information, the docket number I've called is not really the proper docket number. The proper docket number is the one listed, Mr. Wilson.

BOB WILSON: Actually, it's the other way around.

BENNY WAMPLER: Is it the other way around?

BOB WILSON: Yeah. You called the proper docket number. The incorrect---.

BENNY WAMPLER: What they have is incorrect?

BOB WILSON: I think the number on here is incorrect. The original docket number is 06-0418-1615. Your revised Exhibit A has an 05-0816-1490. But the docket number that it was called under is correct.

BENNY WAMPLER: Do you agree with that?

MARK SWARTZ: Yes.

LESLIE K. ARRINGTON: Yes.

BENNY WAMPLER: Any questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

MARK SWARTZ: No.

BENNY WAMPLER: Is there a motion?

JAMES MCINTRYE: Motion to approve the

corrections.

JOSE SIMON: Second.

BENNY WAMPLER: Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. The next item on the agenda the Board on its own motion will reconsider prior approval of repooling coalbed methane unit P-40 in the Garden District of Buchanan County. The repooling was approved at the February the 21st, 2006 hearing. The docket number is VGOB-93-0216-0330-04. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

(All parties come forward.)

BENNY WAMPLER: Okay. We'd ask the parties to identify themselves starting with Mr. Glubiack.

PETER GLUBIACK: Yes. Peter Glubiack. I'm representing Mr. Kyle Robinson with regard to this matter. Mr. Kyle Robinson is on my left. I've got Mr. James Ribble who is here as a surveyor testifying on behalf of Mr.

Robinson.

BENNY WAMPLER: Would you spell the last name, please?

PETER GLUBIACK: R-I-B-B-L-E?

JAMES RIBBLE: Correct.

BENNY WAMPLER: Thank you.

MARK SWARTZ: Mark Swartz and Chris Looney.

J. C. FRANKS: J. C. Franks, agent for the J. H. Franks' Estate.

BENNY WAMPLER: Okay. The Board called this on its own motion. Mr. Robinson and Mr. Glubiack, you may proceed.

PETER GLUBIACK: Thank you, Mr. Chairman. We're here this morning as a follow up to an appearance by Mr. Robinson in March. Hopefully, at some point here, the Board will have a copy of the new survey as well as a little summary sheet that was drafted by Mr. Robinson explaining how we got here. In short, this involves a dispute over acreage that Mr. Robinson has felt for some time, in fact going back to the original order in '94. He felt that the acreage attributable to the unit which was owned by him which would equate certainly to his interest in the escrow account was incorrect. In fact, he received three or four different packages starting with 18 acres. When the Board

order was finally entered by this Board in '94, 8.13 acres was attributed to him in terms of the unit P-40. He has disputed this for some time. Since that time, he has been to Court and established that he is, in fact, the owner of the gas under this particular tract, which makes the dispute all that much more valuable to him.

He was here in March. The Board asked the...asked CNX to repool it and gave him 10.72 acres. We're here this morning because the obvious question the Board had in March was Mr. Robinson you need a survey. I'll let him talk about that in a second. But the long and the short of it is, he has come and has presented it...presented it at the last meeting and Mr. Swartz and CNX have had this for some time. We have Mr. Ribble, the surveyor, here at some considerable expense to Mr. Robinson to testify regarding the accuracy of the survey. Assuming, and we're certainly here to argue that it's correct in all respects, Mr. Robinson appears to be entitled to approximately...well, not approximately 3.69 acres by survey of additional land in the unit, which would equate to a considerable sum of money. We have Mr...I'm going to have Mr. Robinson testify briefly and then I've got Mr. Ribble testifying. But I can proffer about all they're going to say is that this survey is correct. It is our understanding that CNX had someone out on the property last

week. We have not seen anything. We haven't seen a survey. I'm going to take pretty great exception to just testimony about what they think because we have a survey in front of us. So---.

BENNY WAMPLER: We'll ask the parties that plan to testify here to raise their right hand and be sworn, all of you at one time.

(Witnesses are duly sworn.)

KYLE ROBINSON

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. GLUBIACK:

Q. Mr. Chairman, if I may, Mr. Robinson, you've heard my brief speech there and you prepared this little summary sheet, is that correct?

A. That's correct.

Q. Why don't you tell the Board when you started this? When did you first have a problem with the acreage?

A. Back---.

MARK SWARTZ: Can we a copy of his little summary sheet?

PETER GLUBIACK: I thought it got all the way around.

MARK SWARTZ: Oh, no.

BOB WILSON: I'm sorry. Maybe it stopped here.

PETER GLUBIACK: If we could have the extras.

MARK SWARTZ: It doesn't look there are any extras. Oh, okay, all right here we go.

KYLE ROBINSON: That's extra maps.

PETER GLUBIACK: An extra survey is really what we're looking for.

MARK SWARTZ: Here you go.

PETER GLUBIACK: All right.

Q. Mr. Robinson, let's start again. This unit was force pooled in '94. Did you have a problem at that time with the acreage?

A. I did.

Q. And did you come to the Board and say it?

A. I did.

Q. And did they do anything about it?

A. No, sir.

Q. Okay. In the package that you received from CNX or whoever the predecessor was at that time, was your acreage listed differently than 8.31 looking at your sheet?

A. Well, it started out...it started out that I had 18.2 acres and then the next package I got had 17.2, the third I got 16.94, the fourth 16.55 and then I was pooled at the 8.31.

Q. And you came and objected to that?

A. I did.

Q. Okay. And since that time, have you established through a Court hearing that you the owner of the gas under your property?

A. We have.

Q. And you came to the Board in March, based on a petition, asking...stating that you had more acreage than 8.31?

A. I did. Yes, sir.

Q. And what did the Board do?

A. They repooled me at 10.72 acres.

Q. And did they tell you to go do something?

A. Yes, sir.

Q. They told you to go get a survey?

A. That's correct.

Q. And have you done that?

A. I have, sir.

Q. Okay. And you've worked with Mr. Ribble on this, and at least to the extent of a layman, your opinion

is that survey is correct?

A. I am. Yes, sir.

Q. Okay. Now, based on your summary sheet, what is the acreage you're asking the Board to add to the unit as attributable to you?

A. 3.69 acres.

PETER GLUBIACK: Okay. That's all the questions I have Mr. Robinson at this point. He's certainly available if the Board has any questions. I'm going to call Mr. Ribble.

BENNY WAMPLER: Any questions of Mr. Robinson from members of the Board?

(No audible response.)

BENNY WAMPLER: Go ahead and call your next witness.

PETER GLUBIACK: Mr. Ribble, would you have a seat.

JAMES RIBBLE

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. GLUBIACK:

Q. Mr. Ribble, I believe you have been sworn.

A. Yes.

Q. Could you tell the Court...the Board very briefly your experience in terms of licensing and qualifications?

A. Yes, I was licensed by the State of Virginia as a land surveyor. I have been so since 1982. I worked in boundary survey work, thousands of boundary survey work since that time.

Q. And, generally, have you done surveys in this area of the---?

A. Yes, Tazewell, Buchanan County and Wise County.

Q. And did Mr. Robinson approach you about doing a boundary survey?

A. Yes, he did.

Q. And explained the situation, what he needed to have done?

A. Yes, he did.

Q. And as a result of that, did you produce a survey?

A. Yes, I did.

Q. And that's what you have in front of you?

A. Correct.

Q. And I don't know how else to ask you but

quite simply, is this survey that you have in front of you accurate to the best of your ability?

A Yes, it is.

Q. And the boundaries that are on it were located by you as a result of two surveys that existed, I believe?

A. Actually, three surveys that we had access to. One prepared by Norfolk and Western and one by, I assume, Consol and another by Hubert Nash.

Q. The Consol survey was generally along this thing that's described as the McDonald line?

A. Yes. It will be our south line.

Q. Okay. The line along the railroad was done Norfolk and Western as a result of their purchase of a piece from Mr. Robinson?

A. That's correct.

Q. And when there were other lines, these other lines were established by you, you found sufficient documentation and monumentation to establish those lines?

A. Yes, that's correct.

Q. So, in other words, the acreage that you attributed to Mr. Robinson is accurate based on your survey?

A. Yes.

PETER GLUBIACK: That's all the questions I have,

Mr. Chairman, if the Board has any questions.

BENNY WAMPLER: Questions from members of the Board?

BILL HARRIS: Mr. Chairman, I have just a couple of quick questions. One is, there is a note at the top that says, "Boundary established from points found on Norfolk and Southern survey and survey of the McDonald property and by adjusting deed calls." Now, that's probably standard, but what does that mean?

JAMES RIBBLE: Okay. If you'll look on the map on the far west line, basically, what we did, we found monumentation on the south line that was established on the McDonald property. We found monumentation---.

BILL HARRIS: And when you say monumentation---?

JAMES RIBBLE: Physical points on the ground.

BILL HARRIS: Okay, thank you. I'm just not---.

PETER GLUBIACK: Pins, rods and that kind of thing.

BILL HARRIS: Okay, thank you. I'm just not...I just...yeah, thank you.

JAMES RIBBLE: We found monumentation on the Norfolk and Western survey, which established the north line. So, we have the north and the south line established by those surveys by simply going out in the field and tying

those points together in one survey. If you'll notice on the west line, what we had we had the southwest corner and we had the northwest established. So, it was merely a matter of finding some sort of evidence on that west line to get us from that southwest point to that northwest point. The old deed description, if you'll notice we have in parenthesis, the deed calls and then on the line, the actual calls that we found in the field. There's a substantial difference in those two. For instance, the 742.24 line the deed called for 675 feet. The original...the original parent tracts deed had error of some 100 feet in it. As it turned out, when we surveyed this west line, we discovered where...where the 100 foot of error in that original survey was.

BILL HARRIS: Okay. Now, I'm not a surveyor. When you say it has an error, you're saying using the calls in the deed if you were to do that, you would actually fall short of---.

JAMES RIBBLE: Right. Mathematically it wouldn't close back on itself.

BILL HARRIS: It would not close and it has to close if it's...if you're surveying?

JAMES RIBBLE: Right.

BILL HARRIS: Okay. That's one question. Thank

you. The other one is down below that to the upper right total area in original boundary 19.15 acres. Now, I'm not sure when it says original boundary---

JAMES RIBBLE: Before...before all the other---

BILL HARRIS: Okay.

JAMES RIBBLE: That's the original parent tract.

BILL HARRIS: Now, do you have a total listed here for the one...for the survey that you did here? I don't see it listed on the...I guess, you do an area---

PETER GLUBIACK: I think a way to explain it...Mr. Ribble, the parent tract before the cut outs was 19.15---

JAMES RIBBLE: Right.

PETER GLUBIACK: ---when you did the boundary survey.

JAMES RIBBLE: Right.

PETER GLUBIACK: And then to be deducted from that are these three areas that are listed as cut outs---

JAMES RIBBLE: Right.

PETER GLUBIACK: ---from that parcel.

JAMES RIBBLE: Right.

PETER GLUBIACK: So, the resulting amounts subtracting those from 19.15 is the total area owned by Mr. Robinson---

JAMES RIBBLE: That's correct.

BILL HARRIS: So, these are called cut outs?

JAMES RIBBLE: Yes.

BILL HARRIS: So, these are to be subtracted from the 19.15, okay.

PETER GLUBIACK: And I would point out that there is a Phillip Robinson tract of 1.62 acres, which Mr...who is Mr. Robin...Kyle Robinson's son and he reserved the gas on that. So that is not indicated as a cut out and that's the reason. The only parcels that are cut out of the original 19.15 are the Norfolk and Southern tract, the Charles Presley lot and the Randy Looney lot which are indicated on that... and have been surveyed.

BILL HARRIS: Okay. Thank you, sir.

BENNY WAMPLER: Mr. Ribble, do you...have you reviewed Mr. Robinson---?

JAMES RIBBLE: No, I haven't.

BENNY WAMPLER: I would ask you to review that and tell the Board whether or not you believe that to be accurate based on your survey.

(James Ribble reviews the summary sheet.)

JAMES RIBBLE: That's correct, yes. 14.41 acres.

PETER GLUBIACK: 14...in other words, 14.41 acres is the remaining acreage---?

JAMES RIBBLE: Right.

PETER GLUBIACK: ---upon which Mr. Robinson is claiming ownership?

JAMES RIBBLE: Uh-huh.

BENNY WAMPLER: And he was asking to add the 3.69 to make it the 14---?

PETER GLUBIACK: I guess, the procedural question would be, we would request a sort of secondary repooling subsequent to the March 1 to add the additional acreage to make it accurate according to the survey that Mr. Robinson has prepared and has introduced to you today.

BENNY WAMPLER: Requesting that his acreage is 14.41?

PETER GLUBIACK: That's correct, by a survey.

BENNY WAMPLER: Other questions from members of the Board of Mr. Ribble?

JOSE SIMON: I do have one. It says, total original area was 19.15 acres. Did that include the incorrect boundary that you found that was---?

JAMES RIBBLE: No. Are you talking about the shaded area I have on the---?

JOSE SIMON: Yeah.

JAMES RIBBLE: ---east...on the east? No, we didn't include that area. We couldn't...there's some error between...some difference between the Consol survey and the

Norfolk and Southern Survey. There wasn't physical evidence on the ground to prove which line was right, so we left that off.

JOSE SIMON: So, you're saying that that 19.15 is a good starting point?

JAMES RIBBLE: Yes.

JOSE SIMON: Okay.

BENNY WAMPLER: Other questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Mr. Swartz.

CROSS EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Did Mr. Robinson give you a copy of his December the 28th, 2005 letter to Bob Wilson? Do you remember seeing that?

A. I don't remember seeing that, no.

Q. Okay. Why don't you take a moment to read that?

(James Ribble reviews the letter.)

A. Okay.

Q. Would you agree with me that he was telling Mr. Wilson, he meaning Mr. Robinson, was telling Bob Wilson

that his tract should be 11.62 acres?

A. That's what the letter says, yes.

Q. Okay. Did he tell you that when he first talked to you?

A. He told me that...he did not tell me that. He told me that they were paying...he told me the amount of the acreage they were paying him for or that it had asked for, but I had never seen this letter before.

Q. Okay. Let me show you this as well. This is an exhibit that we had when we were last in front of the Board for Mr. Robinson. Have you seen this?

A. Yes, I think I have seen that.

Q. Okay. And in this...this also confirms "I own 11.62 acres", do you see that?

A. Yes.

Q. And it also indicates what he was telling us when we were last here with him as to the starting point. He said, "My original tract was 17 acres."

A. Yes.

Q. And you got it and surveyed it at 19.15?

A. .15, exactly.

Q. And he also, when he was last here talking to the Board, he told us what the size of the tracts that were out conveyances---?

A. Yes.

Q. ---that needed to be subtracted and he had a...the tract that you've got at 3.32, he was saying 3.7 acres ought to come off?

A. Yes.

Q. And the tract that you've got at .64, he was saying an acre ought to come out?

A. No, that's .68.

Q. Okay. And---

A. .78 is the acre.

Q. Okay. And .78 is the acre, correct?

A. Right. Yes.

Q. If I were going to compare what...where we were the last time we were here with Mr. Robinson, he was at 11.62 acres and he is now at 14.41 acres. Okay?

A. Yes.

Q. And would you agree with me that the reason his acreage number has increased, appears to be the tract...the out conveyance tracts have gotten smaller, so there's less to subtract---

A. Uh-huh.

Q. ---and his tract has gotten a couple of acres bigger?

A. Exactly.

Q. Okay. And that's why we're talking about another 3.69 acres?

A. Yes.

Q. Okay. Tell me what...what monuments you found on the south line.

A. Okay. They're noted on the...they're noted on the plat. We found an iron pin with a cap.

Q. Okay. What else?

A. We found a marked beech tree.

Q. So, you went backwards to the beech?

A. Right.

Q. Okay.

A. We also found, and it's not shown on this plat, but we had an additional survey that was done by Mr. Hubert Nash that surveyed and tied a point further up on the McDonald property. We tied that just to check and make sure that the iron pin and the cap hadn't been moved. In addition, we checked between the iron pin and cap and the beech tree and checked with that survey that we had that Mr. Robinson had furnished us.

Q. Okay. But the Nash survey only really caused you to be able to confirm that the iron pin was where it probably should have been?

A. Yes.

Q. Okay. What did you find on the north line on the ground?

A. Okay. We had...we had the Norfolk and Western survey, in addition to Mr. Hubert Nash's survey where he had performed the survey for the 1.62 acre and 1.69 acre Robinson tracts. On that Norfolk and Western survey, they had information on the center of the...center of the railroad tract. They had the bridge...the bridge tied down. We found an iron pin on the Norfolk and Western right-of-way line that Mr. Nash had set. It's not noted as iron pin. But there was an iron pin on the Division line between the Kyle Robinson and Phillip Robinson tract. We found a roof bolt that was set on the State road, also on that division line. Using the stationing and we actually physically located the railroad and the bridge and using the...they had stationing and information that we calcu...reestablish where the Norfolk and Western boundary line was from their map, which is what we did. So, it was actually the monuments that we found in addition to the tract itself and the bridge and the information showing Norfolk and Western's map. The reason for the difference in the acreage was in their map, while they had accurate mete and bounds on most of their lines, they didn't...didn't survey along State road and they didn't survey along the creek. The survey of the State road

on the south side and the creek on the west side. We actually physically surveyed those points on the ground, which explains the difference in the acreage.

Q. I guess, though from what I've just heard, would it be true that you did not find any monuments on the north line?

A. On the Norfolk and Western map, they had this north boundary line tied down on their map. We reestablished that from their map...from points we found on the ground and their map.

Q. Okay. What points did you find on the ground that allowed you to establish that line?

A. I don't have their map in front of me. But on their map, they had a stationing on their centerline where the tract is beginning from the end of the railroad bridge. They had a station at the intersection of their railroad and the north property line, just by locating those points on the ground, in addition to Mr. Hubert Nash...he had retraced the same thing when he did his. We...we found and checked his points and came up with the same results. But, basically, what we did was reestablish that north line trusting that Norfolk and Western survey established it correctly in the first place.

Q. Okay. So, you tried to put down the north

line consistent with the Norfolk and Western survey?

A. Survey, exactly.

Q. And really you weren't able to find any points on the line that let you do...do that. But you were able with reference to the railroad tract and other...and other positions that they had located on their map that you could reproduce that weren't on the line, but that were...that could be tied to that line, that's how you recreated that line.

A. That's correct.

Q. Okay. The...this corner over here where the south line and north line intercept is the place where the survey did not close.

A. Yes.

Q. Okay. And you agree it doesn't close?

A. Yes.

Q. And that when surveys don't close, the acreage is questionable because there's not a closure?

A. That's correct.

Q. Okay. And you...you tried to close it and you got a shaded area that you didn't include in your acreage, but this is your opinion as to how you can get it closed?

A. Yes.

Q. And you say here there's a south 45 37 E 95' measurement and when I scale this I'm, you know, over a 100 feet, I think. Why would that be? I'm looking at a 120 feet.

A. That's the distance all the way to this point.

Q. Okay. Well, where is the 95 feet coming from?

A. That's...that's to the center of the road. That's from the center of the road...center of the state road to their northeast corner, which if you look at the... original Norfolk and Western survey, they call for this...their line following the center of the state road.

Q. Okay. And you've extended it beyond south of the state road is what you telling me?

A. Well, that's the line between the McDonald property and the Robinson property.

Q. And the...did Mr. Robinson share this with you, this map that we had the last we were here?

A. Yes, I think so.

Q. And that...that plat then shows how it doesn't close?

A. Yes.

Q. And did he also share with you this field

traverse printout?

A. Yes.

Q. Which shows an acreage, right?

A. Uh-huh.

Q. Which was what?

A. 16.59.

Q. Okay. The...on the west line, did you find any monuments on the west line?

A. We found an old...remnants from an old fence, as noted on the...noted on the plat on the one line.

Q. Okay. Did you do any research with regard to deeds and Court actions that might be relevant to the west line?

A. We had deeds with two different descriptions on that line. One of them was the parent tract for Mr. Robinson's. It was a deed description there. I think there was another deed description on the tract that joined that and it was somewhat different.

Q. Did you determine that there had at one point been a partition action with regard to establishing that line?

A. I believe I did see that deed. I can't remember exactly what it said.

Q. Okay. Why didn't use that deed to

establish this line?

A. I have to go back and look at it again.

Q. Do you recall that the partition deed was to the east of the west line and would have substantially decreased the acreage?

A. No, I don't recall that.

Q. Do you recall where it was in relation to the line you've established? Was it east or west of your line?

A. I don't remember.

Q. Do you recall the date of that partition deed? Was it 1909?

A. I don't recall that either. I'd have to look through the...it was a pretty thick file.

Q. It looks like the substantial adjustments to the deed calls that you had to make to get this thing to close were on the west line?

A. Yes.

Q. So, the survey kind of agreed with the Consol survey on the south, you know, fairly well agreed with the Norfolk and Western on the north and the problems on the west.

A. Right.

Q. And...I mean, just to give you an...to give

us an example here, you were about 75 feet off from the Deed on the one call here.

A. That's correct.

Q. And then we've got, you know, a 35' difference here, correct?

A. Uh-huh.

Q. And this one you hung there with 198 it looks like.

A. Right. What we tried to do was match... match the bearing of the old fence line. What we found is normally on these old surveys in retracing them, most of the errors is on steep grounds. The flatter the ground, usually the less error the old surveys had in them. So, the 198 foot was a pretty flat measurement.

Q. Did you have a chance to see the plats that Chris Looney did and that were offered at the last hearing?

A. Yes, the little computer generated.

Q. Right.

A. I think...I think those were a conglomeration of the same thing we had. It's different deeds and different surveys.

Q. I asked...I had Chris to take a...take his work and your...your work and make a comparison map, which I'm sharing with you.

(Mark Swartz passes out the map to the Board.)

BENNY WAMPLER: This is Exhibit A.

MARK SWARTZ: A would work.

PETER GLUBIACK: Mr. Chairman, I'm going to---.

BENNY WAMPLER: Mr. Glubiack.

PETER GLUBIACK: ---object at this point to this whole process. Mr. Swartz is basically try to slide some completely undocumented, unlicensed survey work in the front of you under the guise of cross examining my client. If he wants to put this information on, let him do it with his people with a licensed survey. I don't want to slip it in with him...we're paying this guy to testify as a surveyor. He has given you a survey. If Mr. Swartz had the decency and the courtesy to give me this thing weeks ago, we could have done something about it. I haven't seen this thing and neither has Mr. Ribble.

BENNY WAMPLER: Overruled. Continue, Mr. Swartz.

Q. My question for you is, would you agree that basically the areas in yellow on this map that I've just given you depict the substantial differences between your survey and the plats that Chris Looney had previously prepared, just to put us in prospective, where is the difference?

A. That's...the yellow...yes, that depicts it

pretty accurately.

Q. Okay. So, it looks like the argument is about do we go to the center of the State road or south of it which you---?

PETER GLUBIACK: I'm going to object. There's not an argument. We've put forth a survey.

BENNY WAMPLER: Sustained.

Q. The difference between what Mr. Looney had presented at the last hearing, which was maps that were shared with you apparently in the course of doing your work is that he didn't go south of the centerline of the road in the yellow...in the smaller yellow area and you did?

A. Well, no, I...the original maps did go south of the...the Consol map, this line that we have established did go south of the center of the State road. The original boundary line was supposed to go with the creek, which the creek is south of the State road. No, we didn't change that line.

Q. Okay.

A. Now, the center of the State road, the reason it's shown on our plat is because that's the boundary line of the Norfolk and Southern tract and not of Mr. Robinson's tract.

Q. And my question for you is if you compare

the work and the plats that Mr. Looney presented at the last hearing that Mr. Robinson shared with you is a difference between his plat of the Robinson tract and yours, this yellow area off to the east that...the southeast, I guess, that is essentially south of the centerline of the road?

A. Uh-huh. Although, that's what it looks like. But although the line you have delineated doesn't actually go to the center of the road on this plat. It goes to the south of it.

Q. Correct. But is that...I mean, you...your survey includes the yellow area, does it not?

A. Yes.

Q. And Mr. Looney's plats, when we were here last, did not?

A. Correct, yes.

Q. And, roughly, we're talking about the area that you pointed out to me that was south of the centerline of the road that you're including, right?

A. Well, it was my understanding, and I don't know if I saw this exact map or not, but the one I saw had...had this...had included the area to the line that I have shown on as this south line, did not include the area on the west that you have in yellow.

Q. Okay. So, you...you don't know

whether...do you...is it your assumption---?

A. I'm not sure.

Q. Okay. So, you're not sure about the little piece to the southeast?

A. Right.

Q. Okay. But the west, it is your view that this yellow area to the west, the green line shows the platting that Mr. Looney did and the red line and the yellow area shows where you've got the line on your survey?

A. Uh-huh, correct.

Q. Okay. And would you agree with me that most of the difference between your survey and Mr. Looney's platting is the west line issue and how much do we subtract for the interior tracts?

A. Correct.

Q. And the little bit of a problem off to the east, whatever that problem is, is not of the most consequence?

A. Right.

Q. Okay. Did you talk to Mr. Franks about... to get any help in your surveying?

A. No.

Q. When you compare your survey to the plat and computer information that Mr. Robinson provided to you

that had caused him to come up with his calculation or indication that he was entitled to 11.62 acres, is it also primarily the difference to the west where that west line goes?

A. Yes. The length of that west line.

Q. Okay.

A. Not so much the...not so much the east/west direction but the north/south distance.

Q. Well, the north/south distance is that line kind of push it to the west though because you've got to accommodate the length of the lines?

A. That's true.

Q. I mean, by making those lines---

A. Making it longer, it goes further west.

Q. ---it goes further west?

A. right.

Q. And essentially you picked up another roughly 75 to 80 feet in length, I think?

A. Uh-huh.

MARK SWARTZ: I think that's all I have.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Mr. Franks, did you have any

comments?

J. C. FRANKS: Oh, yes. I don't have any questions. I want to present mine.

BENNY WAMPLER: Yes, sir.

J. C. FRANKS: And there's your copy.

PETER GLUBIACK: Mr. Chairman, I want to...I'm not sure how he would clarify some of the things that Mr. Swartz has done. The other question is, who is this gentleman who is handing this stuff out?

BENNY WAMPLER: J. C. Franks.

(J. C. Franks passes out exhibits.)

BENNY WAMPLER: Okay, Mr. Franks.

J. C. FRANKS: Where do we want to start here? I'd like to start with his survey map...with Mr. Ribble's map. I kept looking at that and I noticed that the eastern end it didn't close and in that area he says was the error between Norfolk and Western's survey and the Consol survey. I scaled between the lines and instead of the 95.71 feet, or whatever that is, it wasn't. It scaled closer to a 110 feet from the map. I decided to come back to his point and included... include the error portion and worked from that point both ways. By doing that and using a 110 feet on the north...going northwest from that point and using his numbers from there on around, when I got up to the

northwestern point I hit the Consol map, which is Fincastle's map also, right on the line. The deed to Tract 8, which is the Dewey Cole property, called from that point out to this break point to be 150 foot instead of 198. 198 was in the deed papers I got. I don't know where that came from. But then coming from that eastern point following his line as he was talking about along the road and using his exact points, I noticed that it did not scale to the exact same line. I kept going north as I came to the southwest and this little point down here with the red in it is where I would intersect with the survey of Consol and Fincastle instead of up here. The angle...the problem is, I believe, up here on the second leg up, he's striking this about halfway. But up...the original call-outs in the Deeds that we have that I've seen has this direction going northeast. The Dewey Cole property, I have a map I made of it years ago, but the point of origin is well south of his map. When Fincastle mining was having a problem closing that, I made a layout of it and if you follow the Tract 8 deed, you don't close by quite a bit. You end up, if I can my throat clear, 49.44 feet below the point of origin and 327.56 feet east. I'll walk around with it because it's easier that way. I couldn't copy it...machine copies. I like to go clockwise. Right here, let me show it to you. We ended up here and

started here.

PETER GLUBIACK: Mr. Chairman, I realize this isn't a Court---.

BENNY WAMPLER: Mr. Glubiack.

PETER GLUBIACK: ---and there's no rules of evidence so to speak. But, I guess, I've got a problem with there's a fundamental concept called foundation. There's authenticity. I don't know who is this gentlemen is. I don't know what this stuff is from. He has testified he has traced it off of something else. I'm going to...at least for the record, I'm going to object because I don't know what this is. I mean, I've got surveyor here---.

BENNY WAMPLER: Overruled. He said who he was and he said how he...how he did it. So, I overrule that.

J. C. FRANKS: This was done back in about 1980 to '82, somewhere in that space. When I laid this out, this is the beginning of the Deed and it comes back around and ends over here. That is because this angle right here was incorrect. If you...the starting point is here going this way. I started it there. But if you come here and then instead of going back to the east, swing that west by just about the same amount you headed for the point that he...you're pretty close to the point that he's starting up here. Of course, there are other errors on up. But this is

where I became involved in that error because the post coming from here to try to reach that point from here and you can't go east. But the way, if you use the point of origin for the...it would be the (inaudible) property, the B. B. Cole property and the Dewey Cole property all have a common point of origin. If you use that and come up to this second call out and use the northeast direction and length, you end up out in the road, not in the hill or a hollow. The second callout on the Dewey Cole property or the second one after that is supposed to cross the road, the creek and the railroad bed. If you look at the topo, you're already halfway over there when you get to the point that you're using on that direction.

BENNY WAMPLER: You can feel free to ask Mr. Franks his background any time you want to. I think he can...be happy to tell you about it.

J. C. FRANKS: This is the layout. This is point of origin on my layout. I laid the whole thing out. Coming back it did not end here, it ended over here. Like I said, when you come up here, if you start here again and get up to this point, you're looking for that point and this is what the callout was on the deed...on the survey that we have now coming this way. So, you're pretty close. There are other things in this that muddies the water. But that's...you can

this does not go east. If you do, you out in this area and here is where you cross the road and the creek and the railroad bed. So, if you went this---.

JOSE SIMON: And on that map...on that map, where is the---?

J. C. FRANKS: That would be---.

JOSE SIMON: Over here?

J. C. FRANKS: ---right...right in...do you see this section here, you'd be out in here.

JOSE SIMON: Okay.

J. C. FRANKS: You're breaking in here from about here, you'd be coming over here. You can't be in the hill, if you're out in the creek or across it. That's what this would do to you if you took this angle and set it here, you're going into this, which is out here. So that can't be right. It had to be an error. But it was found...it was found in 1909. I had a map showing that. I don't know who made the map. But I do know that it covers a lot more in this area. This was---.

PETER GLUBIACK: I guess, Mr. Chairman, Mr. Franks just apparently said, "I don't who made the map, but it covers a lot more of this area." So, I guess, I'm going to object it.

J. C. FRANKS: It's documented...it tells on there

who was for and when it was done and why the change in the direction.

PETER GLUBIACK: Who...who did it?

J. C. FRANKS: I don't know. It was before my time. I think this was what was done to satisfy an argument several years ago. But right here is the point we're talking about. They surveyed the Maude Fugate...the Maude Fugate, et al, to G. W. Cole and it included part of share two and three from a June the 19th, 1909 survey or partition, I beg your pardon. This is the point of origin of the Dewey Cole property. It comes over here and up here and here's where they tried to go by the 1929 Deed and it ended up out here. They came back and researched it and moved it over here and it has a note on there that the northwest bearing based on 6/19/09---.

BENNY WAMPLER: Partition.

J. C. FRANKS: ---partition and that was a partition of the...I don't know if it was the Fugate or who. But this is a very old survey that had already found the error and the points that Mr. Ribble has found is not calling on any of the corners of these Deeds, but in a line. So if you move a line and it's shifting. You don't know where it stands.

BENNY WAMPLER: Your objection is sustained as to

this map.

J. C. FRANKS: This is it right here. That's the one direction and this is the correction because...it could have been a typo or simply an error in writing the east or west point of the callout because you have to shift it in order to close it. They went all the way up to Whetstone Branch, which is an easy monument to find and down here is a common corner to three owners who has never been disputed, so you can't use these callouts and end up there.

BENNY WAMPLER: If you will, show that to Mr. Ribble when you get back over there.

J. C. FRANKS: Yes, sir. This is the J. W. Cole property and it's found right here. That's the point. You come up here and up to this point and this is the callout that's in error right here. They were calling it northeast and it should have been northwest.

BENNY WAMPLER: While they're...they're going over that, Mr. Glubiack, just...let me help you a little bit. The Board called this on its own motion. Mr. Robinson didn't petition to do this. We called it on our motion. So, we're going to be liberal as to what we here.

J. C. FRANKS: And I have no idea when this was made, but it...it's talking here about...they corrected it by going back to a 1909 partition.

JOSE SIMON: And the corrections---?

J. C. FRANKS: And the correction fixed this because they couldn't close this way. Well, they ended up, like I say, in that portion that---.

JOSE SIMON: Yeah.

J. C. FRANKS: Across the road. I had weights, but we don't have a table to sit it on. But this is...this is the old Maude Fugate, et al to J. W. Cole and right here is the point in error and this is where they had to go back... this is based on a 1929 deed, but they had to go back to a 1909 partition to correct this error according to his note here.

JAMES RIBBLE: So, it was something that was copied incorrectly from one deed to another?

J. C. FRANKS: Right. And the points that Fincastle had to use, they can find this Whetstone Branch monument easily. It's readily discernible when you get there. This is the common corner to the B. B. Cole property, the Dewey Cole property and this other property on this was L. Rod. This point right here is out of your map down here.

JAMES RIBBLE: Yeah, I see where we are. This line right here is supposed to be this line?

J. C. FRANKS: Right. And I included a sheet in

that other notice as to what these callouts are versus what is on the Fincastle map that I have and they vary a little. The techniques used for surveying has sure changed since 1909.

JAMES RIBBLE: So this is supposed to be the correct line?

J. C. FRANKS: No, this is the---

JAMES RIBBLE: That's the old...that's the original---?

J. C. FRANKS: ---line that was on the Deed.

JAMES RIBBLE: This is the correct---?

J. C. FRANKS: This is the corrected line from 1909.

JAMES RIBBLE: It seems to move it west.

J. C. FRANKS: Uh-huh. This is just about the same angle, but it shifted. Somebody took a W and made an E out of it it looks like and that created a lot problems over the years.

JAMES RIBBLE: Let me see that again.

J. C. FRANKS: Sure.

(James Ribble and Peter Glubiack confer.)

J. C. FRANKS: Well, there have been people trying to find that point by going up there and surveying up and marking things for years. My dad discovered this, I think,

it was in the mid forties.

BENNY WAMPLER: Do you have anything further, Mr. Franks?

J. C. FRANKS: I think that's it with this... with that package.

BENNY WAMPLER: Mr. Glubiack, do you have any---?

PETER GLUBIACK: I'd like to call Mr. Ribble again.

JAMES RIBBLE

DIRECT EXAMINATION

QUESTIONS BY MR. GLUBIACK:

Q. Having just heard what Mr. Franks testified and looking at this old plat, does the line that has been moved according to the partition plat that is presented by Mr. Franks conform more closely to the line that you adopted to make the...make the line fit on the plat that we've presented to the Board?

A. Well, when we surveyed...when we surveyed and corrected this, we found that...what he's saying is the old original had a northeast call and it should have been a northwest and that's actually what we found. As to the yellow...as to line that he has overlaid, because of the error...because of the error in all of those old deeds, I

mean, you could...you could plot this up and slide it any which way you want it to without finding physical points on the ground. All the Deeds call for a beech tree at that southwest corner, which we actually physically located on the ground, and as well as locate it by Consol when they did their survey. It is true that the distance from their iron pin with the cap found to the beech tree varied...varied somewhat from what the old original deeds call...called for. But we found that basically the distances varied from what the old deed called for all the way around throughout the whole survey. This what...this what we run into when we try to do these. One surveyor's survey and a large boundary to the west and one surveyor's survey of this boundary back in 1900. Then when you try to reestablish that division line, all of the monumentation is gone. For instance, they call for a popular stump at one point, a beech tree at one point, which we couldn't find. We found the one at the southwest corner. But we did find the rediment of an old fence that if we used the Deed calls to get from Norfolk and Western's survey to the northwest corner and the first call on Mr. Robinson's Deed, it intercepted with that old fence we found on the ground. We followed that old fence until we lost it. It appeared to take an angle. What did to close the survey was just let the compute close it from the end of an old

fence back to that beech tree and it's obvious that there's some difference between the calls on the Franks' deed and on the call of Mr. Robinson's first deed. But what we found on the ground more closely matched Mr. Robinson's deed.

Q. Let me...let me rehash this again because this does get confusing. First question, you used the Consol survey for substantially the southern line of his property?

A. Yes.

Q. On the Consol survey, now understand we'll get to the distances in a little bit, down towards the southwest corner, you found an iron pin---

A. Yes.

Q. ---which was in the location indicated on the map---

A. Yes.

Q. ---of Consol's survey? More importantly, the southwest corner of these properties that you used sort of as a tie point was a beech tree that was located by you physically and on the Consol survey?

A. Correct.

Q. Okay. Now, jumping up to the northwest corner, you found that corner, you found monumentation for that corner?

A. No. We used...we found monumentation on Norfolk and Southern to arrive at that point. It called for a point on a spur. It's a very narrow spur. At the end of a spur is what the deed called for. When we shot that distance across from the Norfolk and Western's survey, it came out...it was a very narrow spur. You could only have a small margin of error, 20', 30' or 40' on that spur to actually call for the point of the spur or the beginning of the spur and it actually hit on that little spur right there.

Q. And jumping down and going, I guess, sort of southwest from that point, you used...let me ask you a question, is it customary when you're trying to establish a boundary to use fence lines, tree lines, hedge lines and things that are on the ground?

A. Yes. If there's...if all monumentation trees and so forth that were called for on the original Deeds are gone and the fence lines reasonably match the old Deed descriptions, then yes that's the only...the only thing it can do.

Q. And, in fact, going southwest from that point, that's what you used?

A. Yes.

Q. To a point where the fence ran out?

A. Yes.

Q. And then you used a computer and basically drew the straightest line you could from the last point you thought you were certain of to the beech tree which you were also certain of?

A. Yes.

Q. So, to the extent that you could, you used fence line on the ground and then drew a straight line, the shortest possible distance to the beech tree that you were confident based on your physical location of it and on the Consol map was correct?

A. Yes.

Q. And based on that, did you arrive at...how did you arrive at that western line?

A. Just from the means you just stated, holding the southwest corner and the existing fence lines and the original deed distance on the north line from the Norfolk and Western survey.

Q. Okay. And, again, just to...just to make a point, the survey that has been presented to the Board this morning utilizes two surveys that you knew existed and then the best of your ability you've been...you've been a licensed surveyor for approximately, what, twenty-four years?

A. Yes.

Q. And have done, you said, thousands of surveys?

A. Yes.

Q. And this line is the best...to the best of your ability the line that properly conforms to the... what's on the ground and what's called for in the various deeds?

A. Yes.

Q. And as a result of that, the acreage that you've listed at 19.15 is accurate to the best of your knowledge?

A. Yes.

PETER GLUBIACK: That's all I have, Mr. Chairman.

MARK SWARTZ: I'd like to ask Mr. Franks a couple of questions.

BENNY WAMPLER: Let me ask this witness this one.

MARK SWARTZ: Okay.

BENNY WAMPLER: Did you...did you say that you used the Fincastle survey as well? Did you find that?

JAMES RIBBLE: We had that description. We didn't find anything on the ground. I mean, we didn't survey that whole...that whole boundary of the Franks' property to establish where, if any, the error was in their survey.

What we found, we knew that there was a discrepancy in the description of that division line and what we found on the ground more closely matched the description of the property that Mr. Robinson had, the old original boundary tract that he---.

PETER GLUBIACK: And, in fact, the old survey that Mr. Franks just showed you, showed the partition line moving to the west, which more closely conforms to what you drew?

JAMES RIBBLE: Yes.

BENNY WAMPLER: Go ahead, Mr. Swartz.

J. C. FRANKS

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Mr. Franks, you and I have known each other for a while, right?

A. Some time, yes.

Q. Okay. We know each pretty well, but not everybody knows you. Could you...could you tell us just a moment, you know, your educational background and what you did for a living before you started fighting with me?

(Laughs.)

A. Well, I retired from Brunswick. I retired in 1990 and I've been out now for about four years and they

still want me to come back. But I was project engineer, tool engineer and program manager for different things at Brunswick in the aerospace industry. For over...I worked for them for over thirty years...forty-four, in fact.

Q. And...and are you the representative of the Franks Heirs or---?

A. Yes, an agent for the Franks Heirs.

Q. And on Exhibit A that we marked today, we've got a part of a tract to the west, which would be a tract that you're the agent for those folks and you---?

A. Yes.

Q. ---also have an interest?

A. Yes.

Q. Would you agree that the yellow area on the west of Exhibit A is essentially...represents where Mr. Ribble has moved a line to the west---?

A. Yes.

Q. ---and I gather from your testimony that you think he has moved it into your property?

A. Oh, yes.

Q. Okay.

A. No doubt.

Q. And I think you also have an issue with regard to this little sliver on the east even though that

doesn't affect your property?

A. Well, it doesn't affect me, but I had...I paid no attention to that little sliver over there. I simply used his point and his call-outs.

Q. Okay. Now, this western line, is it your position to the Board that there is apparently a dispute with regard to that line and you placed the western line to the east of where Mr. Ribble does?

A. Yes.

Q. Okay. On this map that you took around, the one that you don't know who did it---.

A. You're right. It's an old map.

Q. Okay.

A. An old survey.

Q. ---there is an indication in the middle of the map, L. Maude Fugate, et al and there's a Deed Book reference and then it's January the 10th, 1921. Do you see that?

A. Yes.

Q. And then it...under that in parenthesis, "Part of share number two and share number three, June the 19th, 1909."

A. Yes.

Q. And then if you come over to the west lines

that we've been talking about today there's an arrow to the eastern most line. There are two lines, correct?

A. Yes.

Q. And there's an arrow pointing to the east line.

A. Uh-huh.

Q. And it says, "Northwest bearing based on 6/19/09 partition...", and there's a direction and a distance, correct?

A. Uh-huh.

Q. On this map, is the partition line represented to be east of the original line?

A. No. The '06 partition is the western line and the deed was recorded as the eastern line in error.

Q. Okay, okay. So, that's...that's where you're coming from on the...where those two lines should be?

A. Yes. And that's what he says here. While he's saying it over here, he says...this is the northeastern line, but he says the northwest bearing is based on the '06 partition.

Q. Now, if we take your map because the Board is going to have to deal with an overlap here, I think. I don't know. But if we take the map that you gave to the Board earlier, is what you have outlined in yellow what you

think the boundary is?

A. Yes.

Q. And the lines to the west, one of those two lines is Mr. Ribble's line?

A. Well, his line is the furthest west. The second line down is my drawing of his line after---.

Q. Your adjustment?

A. ---relocating the point of origin back here and working both ways.

Q. Okay. But, basically, in the map that you...the plat that you've presented to the Board today, you're showing where you believe the line should be highlighted in yellow?

A. Uh-huh.

Q. And I assume you did that on their maps?

A. Yes.

Q. Okay. And the furthest western line is Mr. Ribble's line?

A. Yes.

Q. And that's, as far as you're concerned, the area that's in dispute?

A. Right.

MARK SWARTZ: That's all I have.

A. And the...at the northwestern point here,

I am north of his line. But by coming over here and following his line, I end up a 150 feet from my corner, which fits the Dewey Cole Deed and backtracks through this area here.

MARK SWARTZ: That's all I have.

PETER GLUBIACK: May I have questions for him, Mr. Chairman?

BENNY WAMPLER: Yes, sir.

J. C. FRANKS: And I have a topo that shows this. I beg your pardon, I forgot this one. I didn't bring copies because it's---.

PETER GLUBIACK: Mr. Franks, could I ask you some questions before you get to that?

J. C. FRANKS: Sure.

CROSS EXAMINATION

QUESTIONS BY MR. GLUBIACK:

Q. I'm Peter Glubiack. I represent Mr. Robinson. Can I ask you, how did you become aware that there was...there was a hearing today? What...how did...why are you here today and you weren't here in March?

A. I was not notified.

Q. Okay. How did you get notice of this---?

A. I had no idea you had a March hearing.

Q. How did you get notice of this hearing?

A. I got a phone call from Les Arrington.

Q. Okay, from...in other words, CNX told you there was a problem?

A. Yes. He called me.

Q. Okay. Now, Mr. Franks, are you licensed a surveyor in the State of Virginia?

A. No.

Q. Okay. Have you hired a licensed surveyor to look at this information?

A. I had...when we leased to Fincastle Mining, I required that they survey the peripheral of the Franks property.

Q. Okay. Do you have a survey of this property that disputes it?

A. Yes. This is their survey and that's when I drew this sketch I showed you or this big layout of mine because they had a problem and I drew that and I said maybe it's here. They went to the northeast of Tract Nine, which is in Whetstone Branch, and there's easily discernable point for that corner and they worked...they backtracked on Tract Nine and then came down to this common point at the southern end of B. B. Cole, Dewey Cole and L. Rod---.

Q. My question is---?

A. ---and worked back and they...they found that that should have been going northwest instead of northeast.

Q. I asked you if there was survey. You said there was a survey done by Fincastle. You appear to have just told that the Fincastle survey is wrong. Is that---?

A. No. The Fincastle survey is right.

KYLE P. ROBINSON: May I speak?

PETER GLUBIACK: Hang on, Mr. Robinson. You'll certainly will get your chance.

Q. Now, getting back to what I said, so you...and what I'm asking you is, you've not had a survey done since the Fincastle survey?

A. No, I haven't. I don't know if Consol has re---.

Q. And you did not...when did you become aware that there was this dispute? When did you get the call from Les Arrington?

A. Oh, this dispute here, I got that week before last, a Thursday, I believe.

Q. And you didn't think to notify anybody or found out if there had been a survey...did you see Mr. Ribble's survey?

A. Les sent me one.

Q. Okay. And you didn't---?

A. Les, sent me a copy of it.

Q. ---think to contact him and discuss any of this with him before this morning?

A. I didn't---.

Q. Now, this is the first we saw this stuff, right?

A. I didn't have a number for him.

Q. So, you didn't know how to get a hold...you had a survey that you drew over---?

A. Uh-huh.

Q. ---and copied---?

A. Where does he live?

Q. ---but you didn't call him?

A. I don't know where he lives.

Q. Okay. Well, I guess, my point Mr. Franks is I find it unbelievably objectionable to walk in here with stuff this morning. I know Mr. Wampler is saying that---.

A. Well, did you contact---.

Q. ---that it's their motion. I have not seen this stuff. In a Court of law you would be thrown out the door. I think this is ridiculous. I don't what you're talking about here.

A. Why would...hey, you didn't call me when

you pointed this out originally, did you?

Q. We hired a surveyor---.

A. You brought it to the Board.

Q. ---who did it. So, I'll stop. But that's my point.

A. You didn't talk to me about it.

Q. You don't have a survey, is that correct?

MARK SWARTZ: He has told you he has several times.

BENNY WAMPLER: He told...he answered the question that you asked. So, we're not going to get into---.

PETER GLUBIACK: All right. I'm done with that, Mr. Wampler.

BENNY WAMPLER: ---a firing back and forth.

KYLE P. ROBINSON: May I...I think I can add something to this.

COURT REPORTER: Kyle, you need to come down here, please.

BENNY WAMPLER: We need to get you down here where you can be heard. It's real clear we've got a property dispute here---.

KYLE P. ROBINSON: No, it's not a property dispute...not a property---.

BENNY WAMPLER: ---that the Board don't...don't

solve.

KYLE P. ROBINSON: Back to Fincastle Mining, I lease Fincastle Mining two acres of land, which they run all this property. They identified no fault in it at the time. They kept the property leased for probably twenty years and it was no dispute until today. That's all I can add to it.

JAMES RIBBLE: Could I...could I say something?

BENNY WAMPLER: Yes, sir.

JAMES RIBBLE: I don't know that his survey is incorrect. But what I do know is he has no way overlaying his survey onto my survey without locating points on the ground. I mean, you could take...you could take and plot this up and slide it all around on this paper, but without...without holding the points on the ground...I mean, this line that he has drawn, you know, may be over here. It may be over here. I did notice that in the Consol survey, the distance from the iron pin that we found to the marked beech tree was somewhat different than the original Deed call. As I pointed out before, we found differences in all of those distances.

BENNY WAMPLER: Well, I haven't heard...heard anything that disputes what your survey...per say what you've certified. You've identified what you did. You...you've put on here that what you went by.

JAMES RIBBLE: Right.

BENNY WAMPLER: So, I mean, you know, from that dispute I'm not hearing anybody questioning your...the accuracy of what you did.

JAMES RIBBLE: There may be way back in 1900 one surveyor did this boundary and another surveyor did this boundary and two different descriptions on that same line.

BENNY WAMPLER: Right.

JAMES RIBBLE: So what he's saying in that effect is true.

J. C. FRANKS: I do have a Consol topo map of that layout, which coincides with what they have in the pools and I couldn't copy it.

PETER GLUBIACK: Mr. Chairman---.

JAMES RIBBLE: Consol's survey is what we used to---.

PETER GLUBIACK: This is Consol's survey. If Consol is the surveyor, let Consol do it. I don't know that this stuff is anything.

BENNY WAMPLER: Well, Mr. Ribble said he used that survey.

J. C. FRANKS: Using...using theirs and using this common number, I disagree with this line here. I move it up to the 150. But that...your...your overlay hits this

exactly when I find that.

JAMES RIBBLE: Uh-huh.

J. C. FRANKS: And if you come to this point and go east, you're going out across the road. You're not going up the hill.

JAMES RIBBLE: True.

J. C. FRANKS: But if you work from up here and go back, yeah, you're going way out in there.

JAMES RIBBLE: Yeah, we found some discrepancies in all of these---.

BENNY WAMPLER: Okay, we...I think we've heard enough to make a decision here. We have a certified survey that Mr. Robinson has brought his witness in. We have heard the other information. I'll now entertain discussions or a motion from the Board.

JOSE SIMON: I have a...I have a question, Mr. Chairman.

BENNY WAMPLER: Yes, Mr. Simon.

JOSE SIMON: It seems like there is maybe a dispute here. Can we look at this a couple different ways? Say, okay, there's a dispute, so put all the money in escrow until that dispute is settled in the Courts or wherever or can we say, hey, based on what we did earlier this year we had, I believe, 10.82 acres in the calculation for Mr.

Robinson, just keep disbursing on the basis of that until this is settled and then make a correction?

BENNY WAMPLER: We had before us last from CNX a request to repool based on the information that was presented that prior to survey that Mr. Robinson had, that's where we are, you know, as far as going back. We could now deny that, I guess, based on...based on additional information by either the survey from Mr. Robinson and continue to pay until such time as...on that as all of this is finally resolved or we could go with this survey and pay based on that. But we would have to make sure that the notice was given to everybody in the pool and we can figure out who we would require to do that. Mr. Wilson, do you have any light to shed on this?

BOB WILSON: No, sir.

DONNIE RATLIFF: Mr. Chairman.

BENNY WAMPLER: Mr. Ratliff.

DONNIE RATLIFF: Mr. Wilson, are we confident that everyone was notified because if we change Mr. Robinson's line and change his percentage, that's going to effect others?

BOB WILSON: No, sir. I don't...I don't think we can say that anybody who would be affected was notified of the original application. This being a rehearing brought on

by the Board's own motion, there was actually no formal notification given of this other than the publication.

BENNY WAMPLER: Right.

DONNIE RATLIFF: But it could change the payment of certain parties?

BOB WILSON: It could affect the percentage...it could and will affect the percentage ownership of other parties in that unit, yes.

MARK SWARTZ: This tract is right in the middle. I don't know if you guys have a plat. Can you see it? I've sort of outlined it in pen. It's right in the middle. So if you start moving those lines around, you're affecting a ton of people just so...just so you know that. It's not off to the side and---.

JAMES McINTRYE: What percentages is Mr. Robinson's tract of that entire unit?

MARK SWARTZ: He was---.

JAMES McINTRYE: It looks like it's 50% of the window compared to---.

MARK SWARTZ: It's probably more than 50% of the window. But let me look here, it's an 80 acre unit, I think. This was P-40, right? Oh, okay. All right, here we go.

BENNY WAMPLER: I guess another option would be

that we could order continued paying the way it was before and just add this...add this to it.

J. C. FRANKS: If you change it now, you'll be changing it again shortly because it will be contested and I'm sure that this new lines...these lines on this map is correct.

BENNY WAMPLER: I understand.

PETER GLUBIACK: Well, I guess, Mr. Chairman, if I might, what would then make sense is then let's take that 3.69 acre percentage and escrow it and if Mr. Franks is correct he can bring suit and maybe he will get a surveyor next time and then we'll go to Court and we'll come back to you and we'll ask it be disbursed to whoever owns it. I mean, I think at this point..clearly, I'm upset because I think the fact of the matter is this is the way I would argue that this business has been conducted. You know, it's by surprise and by ambush and everything else. Mr. Robinson has gone out at the Board's request and spent a considerable amount of money and considerable amount of time and paid Mr. Ribble a considerable amount of money and here we walk in and Mr. Franks shows up and surprise, surprise we've got a dispute. I dare say Mr. Robinson could have talked and we could have discussed this, he wouldn't have had to spend a lot of money on Mr. Ribble coming in this morning to do what

the Board had asked had we known this was coming up. But this is a typical operation from my friends at CNX. So, we'll---.

BENNY WAMPLER: Well, Mr. Glubiack, you know, there have been a number of times that they have had witnesses on that I've allowed you to challenge, as you well know, and people...and you've come up at the last minute. So, I mean, this goes on. The Board is use to this. So, you know, we're not...we take exception to anything that we did---.

PETER GLUBIACK: Well, you guys have made---.

BENNY WAMPLER: Don't...don't be interrupting me. We didn't really have the floor open to begin with for you to talk again. The Board called this on its own authority to reconsider the prior pooling. That's exactly what happened. Anybody in here that wanted to talk and bring forth information has every right to do that. There's no ambush and no anything else from my standpoint. What you know about what they do, that's between you and them.

MARK SWARTZ: The answer to your question, Mr. Robinson was in two of the pooled tracts this piece that we have been looking at was in two pieces, 2G and 2K and when you add those two together it's the 10.72 that we were dealing with, okay? The problem is if you took 3% and

escrowed it, who are you going to take it from because, you know, the shape of the tracts have changed pretty traumatically and everybody who is antiguous, you know, got more or less. I don't know at this point. I mean, we would have to remap this unit to answer that...to answer that question and I don't know what the answer to that is. I mean, forget, you know, what his position is. I mean, if a boundary of a central tract changes everybody who touches that tract is going to have a problem. So, you can't just take 3%. Who do you take it from because it doesn't...it wouldn't come from you necessarily? So, I don't do that as a solution.

BENNY WAMPLER: Other questions or comments from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

DONNIE RATLIFF: I move that we deny the application to repool, Mr. Chairman.

JOSE SIMON: I second.

BENNY WAMPLER: Motion is second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Thank you.

We'll take a ten minute recess.

(Break.)

BENNY WAMPLER: Okay. We'll call the meeting to order. The...folks, sorry, we're back in business here. Next is a petition EOG Resources, Inc. for pooling of a conventional gas unit Big Vein Well 3306. This is docket number VGOB-06-0516-1629. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

TIM SCOTT: Tim Scott and Dave Perkinson for EOG Resources.

BENNY WAMPLER: The record will show no others. You may proceed.

(Dave Perkinson is duly sworn.)

DAVE PERKINSON

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. SCOTT:

Q. Mr. Perkinson, would you state your full name, please?

A. Yes, it's Dave Perkinson.

Q. And by whom are you employed?

A. EOG Resources.

Q. And what's your job description at EOG?

A. Landman.

Q. How long have you been a landman?

A. Twenty-five years.

Q. And how long have you been working EOG?

A. Approximately, six years.

Q. So you are familiar with this area?

A. Uh-huh.

Q. Okay. Are you familiar with EOG's application that's pending before the Board for Pocahontas Knob unit N-21?

A. Yes.

Q. And that unit is located within the Pilgrim's Knob Field, is that right?

A. Right. Unit PK-N-21.

Q. And does it contain 180 acres?

A. Yes.

Q. Does EOG have drilling rights in this unit?

A. Yes, they do.

Q. Are there any respondents listed on Exhibit B-3 who should be dismissed at this time?

A. No.

Q. Do you have any revisions to any of the exhibits that we filed with the Board with our application?

A. No.

Q. Okay. Now, with regard to the respondents listed on Exhibit B-3, have you attempted to reach agreements with those respondents and what efforts have you made?

A. Yeah, there's an agreement that is pending execution.

Q. Okay. And that...now, is that with...Hard Rock is the only respondent---?

A. Yeah, right.

Q. ---is that right?

A. That's the only one, uh-huh.

Q. Okay. What percentage of the unit does EOG have under lease?

A. 50.50.

Q. And how as notice of this hearing provided to the respondents listed on Exhibit B-3?

A. By way of certified mail.

Q. Was notice affected any other way?

A. Yes. We published it in the Bluefield Daily Telegraph.

Q. And what day was that published?

A. April the 18th, 2006.

Q. Are there any unknown owners in this unit?

A. No.

Q. Okay. Have you filed proofs of publication and affidavit of mailing with the Board?

A. Yes.

Q. Is EOG authorized to conduct business in the Commonwealth?

A. Yes, they are.

Q. And does it have a blanket bond on file with the Department of Mines, Minerals and Energy?

A. Yes.

Q. If you were to reach an agreement with the unleased parties listed on Exhibit B-3, what would those terms be?

A. That would be a five year term, cash bonus of five dollars per net acre, plus one-eighth of one-eighth royalty.

Q. Okay. One-eighth of eight-eighths?

A. Eight-eighths, I'm sorry.

Q. Okay. Does this...is this a fair and

reasonable amount for a lease in this area?

A. Yes, it is.

Q. What percentage of the oil and gas estate is EOG seeking to pool for this unit?

A. 49.50%.

Q. Is there an escrow requirement required in this unit?

A. No.

Q. Are you asking the Board to pool the unleased parties listed on Exhibit B-3?

A. Yes.

Q. And are you also requesting that EOG be named operator for this unit?

A. Yes.

Q. Now, when...if the order is entered by the Board, to whom should correspondence regarding any elections be made?

A. It would be to the Division of Land Manager, Flavious Smith.

Q. At what address?

A. It's...I was afraid you were going to ask me that. Okay, it's Southpoint Plaza One, 400 Southpoint Boulevard, Ste. 300, Cannonsburg, Pennsylvania. The zip is 15317.

Q. Okay. With regard to this particular unit, are you familiar with the depth of the...the target depth of the well?

A. Yes, I am.

Q. And what would that be?

A. It is 5,200 feet.

Q. Okay. Are you requesting that the Board pool all formations between the surface and the target depth, whether listed or not, excluding coal?

A. Yes.

Q. Okay. And what would be the estimated reserves for this unit?

A. It would be 300 mmcf.

Q. And what's the estimated dry hole costs for this well?

A. Okay. It's \$185,900.

Q. And the completed well costs?

A. \$310,400.

Q. Now, with the application, was a signed AFE submitted?

A. Yes.

Q. Does the AFE include a reasonable charge for supervision?

A. Yes, it does.

Q. And in your opinion, would the granting of this application be promote conservation, protect correlative rights and prevent waste?

A. Yes.

TIM SCOTT: That's all I have, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

TIM SCOTT: Mr. Chairman, on the plat we've actually attached, with Mr. Harris' instruction, a list of the owners so that we could identify them by track number. I just wanted to alert the Board to that fact.

BENNY WAMPLER: I was looking at HRVAE 8 on that plat. Is that...what is that...what are you showing there?

TIM SCOTT: 322.7...let's see is a Hard Rock well...Hard Rock Exploration well in an adjoining unit. Is that the one you're talking about, Mr. Chairman?

BENNY WAMPLER: Yes...yes.

TIM SCOTT: Right.

BENNY WAMPLER: You're only 322 feet away from that?

TIM SCOTT: Yes, sir.

JAMES MCINTRYE: No, it's 4,462 feet to HRVA, isn't it? 322 to an iron pin.

TIM SCOTT: No, that's right. You're right. It's 4462 feet.

BENNY WAMPLER: To the pin.

TIM SCOTT: And then number 9 is 3521.31 feet.

JAMES McINTRYE: Right.

TIM SCOTT: There's an up and down mark showing that it couldn't all be displayed on this plat. I'm sorry, I couldn't read the map.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

TIM SCOTT: No, sir.

BENNY WAMPLER: Is there a motion?

JAMES McINTRYE: Motion to approve.

JOSE SIMON: Second.

BENNY WAMPLER: Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval.

TIM SCOTT: Thank you.

DAVE PERKINSON: Thank you.

BENNY WAMPLER: I'm trying to figure out a good time to break for lunch whenever it's here. But I guess we will go on until it's...until it's here.

BOB WILSON: I don't think it has shown up yet.

BENNY WAMPLER: Next is a petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization of direct payment of royalties on a portion of Tract 1A and 1C of unit T-37. This is docket number VGOB-98-0421-0650-03. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Anita Duty.

KENNETH OSBORNE: Kenneth Osborne.

BENNY WAMPLER: The record will show no others, you may proceed.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Anita, you need to state your name for us, please.

A. Anita Duty.

Q. Okay. Did you prepare Exhibit A?

A. Yes.

Q. And the Exhibit E?

A. Yes.

Q. Okay. With regard to Exhibit A, what records did you review to do that exhibit?

A. I compared the deposits that we had sent to escrow with what the escrow bank showed and they balanced.

Q. Okay. And have you revised Exhibit E to essentially extract the people listed on Exhibit A?

A. Yes.

Q. Okay. If...if the escrow agent were to make the disbursements at some point in the future, should they use the percentages that you've specified in Exhibit A or the dollars?

A. The percentages.

Q. Because the dollars will change?

A. Yes.

Q. And also any Board order that would be entered as is customary would obviously stop the escrow requirement with regard to people who are receiving these funds?

A. Yes.

MARK SWARTZ: Okay. That's all I have.

BENNY WAMPLER: Mr. Osborne.

KENNETH OSBORNE: Mr. Chairman, I'd just ask that this be treated as the previous ones, the Linkous Horn Heirs.

BENNY WAMPLER: All right. Is there a motion?

MARY QUILLEN: Motion to---.

BENNY WAMPLER: To disburse the Albert Ball---.

MARY QUILLEN: ---disburse the Albert Ball funds from escrow.

BENNY WAMPLER: Is there a second?

JOSE SIMON: Second.

JAMES MCINTRYE: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Thanks. Next is a petition from CNX Gas Company, LLC for disbursement of funds from escrow and authorization of direct payment of royalties on Tracts 1A and 1B of unit W-36, docket number VGOB-98-0324-0629-01. We'd ask the parties that wish to address the Board in this matter to come forward at this

time.

MARK SWARTZ: Mark Swartz and Anita Duty.

BENNY WAMPLER: I show no others. You may proceed.

ANITA DUTY

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. State your name for me, please.

A. Anita Duty.

Q. Anita, did you prepare Exhibit A---?

A. Yes.

Q. ---and the revised Exhibit E?

A. Yes.

Q. What records did you review to prepare Exhibit A?

A. I compared our records with the escrow bank and they balanced.

Q. Okay. And have you provided on Exhibit A an identification of the people to receive funds the tracts that those would come out of the percentages and the dollars as of a date?

A. Yes.

Q. Okay. And what was the date that this

reflects balances as of?

A. March the 31st.

Q. Okay. And if the escrow agent is to be instructed to make these disbursements, should the escrow agent be instructed to use the percentages?

A. Yes.

Q. Okay. And, obviously, the dollar amounts might change and that's why they're not going to be used?

A. Yes.

Q. And would you also request that any order authorize the operator to pay these folks directly as opposed to escrowing their funds in the future?

A. Yes.

Q. And have you revised Exhibit E accordingly?

A. Yes.

MARK SWARTZ: That's all I have.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

MARY QUILLEN: Motion to approve.

JOSE SIMON: Second.

BENNY WAMPLER: Second. Any further discussion?

(All Board members signify by saying yes.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Next is a petition from CNX Gas Company, LLC for establishment of a drilling unit under the field rules allowing for horizontal drilling. This is docket number VGOB-04-0921-1341-04. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Les Arrington.

(Anita Duty passes out exhibits.)

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Okay. You need to state your name for us.

A. Leslie K. Arrington.

Q. Who do you work for?

A. CNX Gas Company, LLC.

Q. What do you do for them?

A. I'm manager of environmental and permitting.

Q. Did you either you either yourself prepare the notice of hearing and the application and exhibits or caused them to be prepared under your supervision?

A. Yes, I did.

Q. Did you sign both of them?

A. Yes, I did.

Q. Okay. What did you do to notify people that there would be a hearing with regard to this CNX horizontal area number five today?

A. Yes. We published in the Bluefield Daily Telegraph on April the 20th, 2006 and we mailed by certified mail April the 14th, 2006.

Q. And in the third page of the packet the application and the notice that the Board should have, that actually shows the unit that you're seeking to create for horizontal drilling?

A. Yes, it does.

Q. Okay. So, this little map would show the unit and then the map that you've passed out, would you hold that up, it shows off to would be the east a fairly large area where you've got some horizontal unit legs, right?

A. Yes, it is.

Q. And where is the unit that we're talking about today?

A. The units are the furthest to the...I guess, that would be to the west over on the...kind of the western edge of the map.

Q. Okay. And that then in the physical Oakwood units would conform to what you showed on Exhibit A-1 when you published your notice?

A. That's correct, it did.

Q. Okay. And it looks like you're proposing multiple wells and legs?

A. Three...three different sets of pairs, yes.

Q. Okay. And each of those pairs requires the drilling of how many wells?

A. Two.

Q. Okay. And is that...I notice that you're asking for the creation of a drilling unit and we've sort of talked about the dimensions and shape of that.

A. Yes.

Q. But also you're going to need some location exceptions?

A. Yes.

Q. That's because each of these have two wells that are fairly close together within---?

A. Yes. 300 to 500 feet.

Q. Okay. You have...how many acres are

included?

A. 1200.

Q. And have you provided in addition to a map showing the Oakwood units, grid units, have you also provided a sort of a metes and bounds description?

A. Yes, we have.

Q. And that's at paragraph seven of your application?

A. Correct.

Q. Okay. Ad what seams are you talking about here?

A. The Pocahontas Number 3 seam...3, 4 and 5 seam, I'm sorry.

Q. And these...would you tell the Board whether or not you anticipate fracing these wells?

A. No, we do not.

Q. Okay. So, essentially, you're going to get down into the...into the 3, 4 and 5 seams and do horizontal drilling?

A. Correct.

Q. You've got a Exhibit C supplement to the application.

A. Yes, we have.

Q. And what's...what's the purpose and intent

of that?

A. That's the wells that's located...existing wells that's located in the areas.

Q. Okay. And have any of those existing wells been force pooled or are they all voluntary?

A. I would think some of them has been force pooled, Mark. I'm not sure.

Q. Okay. So, some may be force pooled?

A. Uh-huh.

Q. The...but the point of this application today is not to force pool anybody?

A. No.

Q. It's just to create the unit (inaudible), is that correct?

A. Yes.

MARK SWARTZ: That's all I have.

BENNY WAMPLER: Questions from members of the Board?

JAMES McINTRYE: My question would be to Mr. Swartz. There's going to be two opening...two wells for each series of legs.

MARK SWARTZ: Right.

JAMES McINTRYE: And then are you going to... there's three or four seams at different depths. Then would

they be different? Would there be another bore hole in each...each one of those?

MARK SWARTZ: Les, you need to---.

LESLIE K. ARRINGTON: The possibility is... that's the reason I put the Pocahontas Number 3, 4 and 5 seams in there. As we drill the Pocahontas Number 3 seam, if we should see...the possibility there is to horizontally drill the 4...the Pocahontas 4 seam then we may come back a hole and drill it horizontally. But we'll certainly do the Pocahontas Number Three seam first.

BENNY WAMPLER: On the wells that you've...that you...where you've done this before, have you...tell us about your experience there and what seams you've penetrated.

LESLIE K. ARRINGTON: We did the Pocahontas Number 4 seam on, I believe, all three of them, I believe. I think it was all three of them that we did the 4 seam. The first two, we weren't real happy with and the third one, we've been pretty successful in it. The leg lengths vary that we were able to reach out according to hole conditions.

BENNY WAMPLER: Now, when we get to...I know you're asking to create the unit. When we get to paying for the unit, how do you propose to do that?

LESLIE K. ARRINGTON: We'll allocate the

proportion that's within each 80 acre unit of the total length.

BENNY WAMPLER: Does everybody understand that?

(No audible response.)

BOB WILSON: Mr. Chairman.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: I have some...a little bit of problems with some of this. I'll apologize to the applicants before I start because I only looked at this stuff last night. Normally, I would have talked to them about this before we got here. There are---.

BENNY WAMPLER: You can blind side them.

BOB WILSON: Excuse me?

BENNY WAMPLER: You can blind side them.

BOB WILSON: I just did. There are a number of units that are...these, of course, are Oakwood units. They have been force pooled. There are people subject to escrow in these units. They...these units have already gotten elections to people who made elections based on a well in the unit. I have actually a couple of problems. Number one, I'm not sure but what maybe this application should have been a modification of the Oakwood Field Rules since you're using Oakwood units that have been established by the Board are pooled by the Board. Many of them are pooled by

the Board and under the Board's jurisdiction. Secondly, I can't...I haven't really studied it enough to put my finger on it, but I have some questions as to whether correlative rights interests of the people who are in these units are going to be totally protected since there have been some of them have produced or already from straight holes. There are probably some that haven't. I don't have any kind of a layout as to exactly where the wells have been drilled prior. I'm sure you probably do. But there are things, I think, that might need to be addressed here especially in those units that have been pooled that are subject to force pooling and subject to escrow.

BENNY WAMPLER: That's where I was going about the payment for the future is just for those existing now what are we doing? Do you want to go ahead and cover some of that?

LESLIE K. ARRINGTON: Sure.

BENNY WAMPLER: Subject to your attorney's approval.

MARK SWARTZ: Take a stab at it.

LESLIE K. ARRINGTON: Okay. First of all, I'm kind of use to...Bob, your first statement. That didn't bother us too bad anymore. But then on...I did personally put these wells on the map, the horizontal legs. I did, as

they were put on there, as I sat down and tried to lay these wells out, I intentionally tried to miss what we think were the frac wings of the existing frac wells to try not to impact those wells at all. So, when I done that, I did try to miss those wells. As far as force pooling issues, I did anticipate that not knowing exactly which ones we'll drill right yet. I'm just trying to get the approval to drill the wells. I'll be back before the Board to force pool those individual wells or units that need to be force pooled and allocating whatever costs we should deem necessary at that point.

BENNY WAMPLER: Of course, this application is only for establishment of a field rule.

LESLIE K. ARRINGTON: Yes, sir.

BENNY WAMPLER: And Bob's...going to Bob's question then about why not modify Oakwood. I think that was your question.

BOB WILSON: Yes, sir, it was.

LESLIE K. ARRINGTON: Well, we could---.

MARK SWARTZ: We've got all kinds of horizontal wells that we've never messed with in Oakwood.

LESLIE K. ARRINGTON: Yeah.

MARK SWARTZ: I mean, Oakwood...I mean, there's---.

LESLIE K. ARRINGTON: It's just one.

MARK SWARTZ: There's in...in mine drilling---.

BENNY WAMPLER: He asked the question. I was just---.

MARK SWARTZ: ---and everything. I mean, I...I mean, just theoretically when you pool these unit...when you pool a unit and you appoint an operator, the way your order reads, you're giving that operator the ability to develop all of the gas in the unit that's being pooled, okay? So, in theory, if we've already pooled these units, we've got the right to develop this gas under the first pooling order. The practical limitation under the pooling orders, and I think this is on purpose, you know, is you tell us what we can do develop the gas and the pooling order. So, you pooled all of the gas and then you said...and you can develop it by drilling a frac well or you can develop it by, you know, doing whatever. So, to...you know, we've got a pooling order, but what we need to do is amend that pooling order to allow a different kind of development in the unit. So, we're going to have to come back on that. But I...I would not be a fan of messing with the Oakwood Rules. I think we'd kind of take the lid off of a huge jar. You know, we're talking several...you know, certainly over a hundred thousand acres. Obviously, you know, they

can't...these aren't voluntary units. That's why asked them. What I'm hearing is that they're not all voluntary units. We're going to have to come back because, you know, the original pooling order, although it pooled the coalbed methane and gave the operator the right to produce it, it gave the operator the right to do that in a specific way, which did not include this. So, we're going to have to be back.

BENNY WAMPLER: Yeah, we said you have to come back if you had a---.

LESLIE K. ARRINGTON: Okay.

BOB WILSON: Excuse me.

LESLIE K. ARRINGTON: Let me touch on the Oakwood Field why we didn't include it. I had to flip back...back and forth on that. The reason we had come in on the first four applications that were outside the Oakwood Field and we done those on an individual basis, we just come back and assumed we need to do these individual and not as Oakwood Field, now that I step back and look at it.

BOB WILSON: Yeah, they...they were outside of---.

MARK SWARTZ: The field.

BOB WILSON: ---the Oakwood Field. Now, when you have done say a longhole projects and that sort of thing,

you've always modified the existing Oakwood Rule to allow for that.

LESLIE K. ARRINGTON: Right.

BOB WILSON: That's kind of where I'm coming from on this is that, again, I'm not sure if there's a precedent for having units or field rules overlaid on the field rules. You have Oakwood Field Rules and then you modify them to meet whatever necessity there is to...for your production.

MARK SWARTZ: Well, I mean, if we were doing longholes, let's say here, in the Oakwood and the way we've done it in the past, the longhole would be a complete...it wouldn't be...you wouldn't modify Oakwood in that area. You would just authorize us to also do longholes. I guess, you know, what we were thinking here, you know, is that we also...we also want to do horizontal. It's sort of in the same except for we're drilling from the surface instead of inside the mine.

BOB WILSON: I think you generally come back though before the Board to get authorization for Longhole drilling in Oakwood units because as you said earlier, they were not...there was not authorization---.

MARK SWARTZ: Well, the problem...the reason we come back to the Board is...let's assume it was a pooled unit and we've got a frac well and now we're in a mine and

we can drill horizontal wells from a (inaudible), we would come back to get the Board to amend its order to allow us to allocate the production from the longholes to the Oakwood unit we had previously pooled on a footage basis. I mean...but we're not really repooling the gas, we're changing the method of production. What I'm saying is that I felt like, you know, Les was proposing to do the same thing here, which is why we've done it this way. So, it's really...you know, a horizontal hole isn't covered by the Oakwood Rules, but if you've got an Oakwood unit that would allow you to pay people, why not use it which is what we've done before. I mean---.

BOB WILSON: Same thing.

MARK SWARTZ: ---maybe we're saying the same thing, but I wasn't sure.

BOB WILSON: The other aspect, of course, that if you add wells of this sort to a force pooled unit, do you have to give these folks another election shot at this...at participating in this hole?

MARK SWARTZ: We always do. I mean, if you...if you drill another well in the unit, you know, they've got another...I mean, they don't get to start over with the old one, but, you know, this new development project, they can be a part of that.

BENNY WAMPLER: But we're not dealing with any of that.

MARK SWARTZ: We're not. But, I mean, that's what we would do.

BENNY WAMPLER: But, yeah, I mean, that's...of course, I started that. I started probing outside of what was before us too. That's okay. Hopefully, that helps some of the other folks here to understand a little bit more about what the game plan is. Any other questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

MARK SWARTZ: No.

(Members of the audience comes forward.)

BENNY WAMPLER: I need to get you sworn in and state your name for the record.

(Witnesses are duly sworn.)

WALTER SHORTT: I'm Walter Shortt. I'm representing the Tom Shortt heirs. What I was concerned about here was on this BB...AA-39 and BB...just where is that going to be on our property?

LESLIE K. ARRINGTON: The well location.

WALTER SHORTT: Uh-huh.

LESLIE K. ARRINGTON: No, sir, they will not.

WALTER SHORTT: They will not?

LESLIE K. ARRINGTON: No. They may go underneath your property, but they will be located on your property.

WALTER SHORTT: Okay.

BENNY WAMPLER: Show him there on the...Mark, you have the map.

MARK SWARTZ: What units were you saying?

WALTER SHORTT: BB-39...AA-39.

BENNY WAMPLER: AA and BB, you said.

WALTER SHORTT: Right.

(Mark Swartz and Leslie K. Arrington explains where the wells are on the map.)

BENNY WAMPLER: Does that answer your question?

MARK SWARTZ: Does that...do you follow that?

WALTER SHORTT: Right.

MARK SWARTZ: I mean, if you don't, you need say something.

WALTER SHORTT: That's what I wanted to do if it was going to be, you know, on our premises.

MARK SWARTZ: It will be under at some point---.

WALTER SHORTT: Right.

MARK SWARTZ: ---but I'm not sure where your tract is in those---.

WALTER SHORTT: Right. I understand that. Okay,

then.

MARK SWARTZ: And then they would pay, you know, what we're talking about. You pay by, you take the total amount of feet of the hole that's producing gas and whatever this distance is you put over that and that's percentage that goes to this unit and how you allocate...allocate the gas and the same thing would be for this line.

WALTER SHORTT: Right.

MARK SWARTZ: Okay?

WALTER SHORTT: Okay.

MARK SWARTZ: Does that make sense?

WALTER SHORTT: Right. Yeah, this CC here it's adjoining with---.

BENNY WAMPLER: If any of you others want to speak, we have to have you come down and be sworn in and state your name for the record. We'll be happy to hear from you.

MARK SWARTZ: But that's where you are, right?

WALTER SHORTT: Right. Right here---.

MARK SWARTZ: 39.

WALTER SHORTT: Right here is the same cemetery. We're up in this area right in here.

MARK SWARTZ: Well, here is the...okay. Yeah, I see where you are. Yeah, it would definitely be some under

you, I mean, by, you know, a couple of 1000 feet I would imagine.

WALTER SHORTT: Uh-huh.

LESLIE K. ARRINGTON: That's almost 500.

WALTER SHORTT: Okay.

MARK SWARTZ: All right?

WALTER SHORTT: Okay. Thank you.

BENNY WAMPLER: Anyone else?

JOSE SIMON: So where this well...you gave us a list on Exhibit C of where there are already some wells existing.

LESLIE K. ARRINGTON: Yes.

JOSE SIMON: I gotcha. Will the production from these wells potentially reduce the continuing production from those other wells?

LESLIE K. ARRINGTON: I hope not because I actually laid these wells out and tried to miss the frac wings of the existing wells. You know, we may impact them.

JOSE SIMON: Okay.

LESLIE K. ARRINGTON: But I...we hope not.

BENNY WAMPLER: And you did say you're not fracing here?

LESLIE K. ARRINGTON: No, sir---.

BENNY WAMPLER: You're not proposing to frac

these?

LESLIE K. ARRINGTON: ---we are not.

BENNY WAMPLER: We'll need you to get sworn in and state your---.

(Connie Davidson is duly sworn.)

CONNIE DAVIDSON: Connie Davidson. I'm for the Charles Davidson tract. I just wanted to make sure that they weren't going to be on my property. Why was I sent this if you're not?

LESLIE K. ARRINGTON: Okay. The wells...the reason we...we noticed everybody that was within the units that...that legs would go through. So, the well locations are anticipated to be on either Commonwealth Coal Company surface or Coal Mountain.

CONNIE DAVIDSON: So, I own my gas rights also. Do...does the money go in escrow like it has supposedly been---?

LESLIE K. ARRINGTON: Yes, ma'am.

CONNIE DAVIDSON: ---going now---?

LESLIE K. ARRINGTON: It will be---.

CONNIE DAVIDSON: ---because I haven't received anything?

LESLIE K. ARRINGTON: That's correct. And if you own your oil and gas, which since you've gotten a notice,

that---.

CONNIE DAVIDSON: Right.

LESLIE K. ARRINGTON: ---should be where it's going, I hope.

CONNIE DAVIDSON: Right.

LESLIE K. ARRINGTON: And should we decide on the well that impacts the unit that you're in, you'll get an additional document from us for force pooling that unit again.

BENNY WAMPLER: See this is just to create the unit, ma'am. They're asking the Board to establish the unit. They're not getting any other permission here today. They'll have to come back.

CONNIE DAVIDSON: Well, I just wanted to make sure I'm...I'm made aware of it if you do.

LESLIE K. ARRINGTON: And you will be.

MARK SWARTZ: Which...which one are you in? Do you know?

LESLIE K. ARRINGTON: She's...she's back over on this side, I believe.

MARK SWARTZ: She's over here somewhere.

CONNIE DAVIDSON: Uh-huh.

MARK SWARTZ: You don't know off the top of the head which one...off the top of your head which one you're

in?

CONNIE DAVIDSON: No, I'll say I don't because I live at the---.

MARK SWARTZ: Okay. Here it is.

CONNIE DAVIDSON: I live on the Buchanan side, but it's right on the end of the State maintenance.

LESLIE K. ARRINGTON: Yes, ma'am.

MARK SWARTZ: We ought to be able to figure that out here.

LESLIE K. ARRINGTON: It should be in...right here.

CONNIE DAVIDSON: Yeah.

LESLIE K. ARRINGTON: That should be her.

CONNIE DAVIDSON: What's that---?

LESLIE K. ARRINGTON: That should be her.
That's---.

CONNIE DAVIDSON: Where is that located on here?

MARK SWARTZ: Okay. That would be in this area here, okay?

CONNIE DAVIDSON: Oh, that was where I had it figured.

MARK SWARTZ: Okay. And then if you look at this...this is where the two wells are going to be. So, they're going to be up in...in this area here where the

surface would be disturbed.

CONNIE DAVIDSON: Okay.

MARK SWARTZ: Okay. And then do you see how the legs are going to come down?

CONNIE DAVIDSON: Uh-huh.

MARK SWARTZ: Okay. So underground, it's going to under your unit.

CONNIE DAVIDSON: Well, they're doing that already.

MARK SWARTZ: Right. But I'm just saying that's what the surface disturbance, you know, where you build stuff---.

CONNIE DAVIDSON: Yeah.

MARK SWARTZ: ---would be on the unit to the north of you.

CONNIE DAVIDSON: Will that not cause damage with your...with your property already...I mean, like the surface?

LESLIE K. ARRINGTON: No, ma'am. It's only a hole this big.

BENNY WAMPLER: They're not going to frac it or anything.

LESLIE K. ARRINGTON: We're not going to be fracturing it. It's only in the Pocahontas Number 3, 4 or 5

seam. So, that's going to be approximately 1500 feet below you.

CONNIE DAVIDSON: As long as I'm made aware of---?

LESLIE K. ARRINGTON: You will be.

CONNIE DAVIDSON: ---anything that goes on my property?

LESLIE K. ARRINGTON: And you.

BENNY WAMPLER: Any others? One more. Leave that map out, Mark. I need you to get sworn in and state your name.

(Linda Shortt is duly sworn.)

COURT REPORTER: And your name, please.

LINDA SHORTT: Linda Shortt. Hi.

BENNY WAMPLER: Hi.

LINDA SHORTT: Greetings to the Board again. It's nice to see all of you again. My question is, like Bob has asked and you brought it up and I thought it was a good point, if you have already a well, an existing well, and then you do a horizontal one, is that like two different wells even though you're going into that same one?

BENNY WAMPLER: Mr. Arrington.

LINDA SHORTT: Because you're actually doing a hole into the well that is existing. Is that my understanding?

LESLIE K. ARRINGTON: Well, actually, we'll drill two new holes here.

LINDA SHORTT: Is it going into the well that's already fraced?

LESLIE K. ARRINGTON: No, ma'am, and I certainly hope not. Again, I hope---.

LINDA SHORTT: But how can you be sure? I mean, are you getting...are you going to get gas from that same well that the people have already been...the Board has already approved the force pooling...I mean, you've already had your force pooling and it's in an escrow account. Will there be money put from that well into an escrow account for the families?

LESLIE K. ARRINGTON: Yes, ma'am, there will be. It will be...again, once we...I had to come in with a plan and now I'll go back to the office and we'll sit down now and study this even more that I've got the approval to drill these wells and we'll study and we'll drill one of these three wells. Should it be successful, then we'll drill maybe the other two. But whichever wells we do drill, the units that those horizontal legs impact will be force pooled again.

BENNY WAMPLER: Meaning, if they go under that unit they'll...they'll be a part of that pooling?

LESLIE K. ARRINGTON: That's correct.

LINDA SHORTT: And who will oversee that portion of that well to make sure that if any gas is being bled out, as Mr. Shortt mentioned, that's not going into that other...how are we going to know that? How is the families going to know that that escrow account is really being, you know, justifiable and we get the gas from what's being force pooled from us?

LESLIE K. ARRINGTON: Each...each well...each---?

LINDA SHORTT: Because you're saying that you don't if you might be successful and you might now, which is, you know...if you're going to get it, I hope you are successful.

LESLIE K. ARRINGTON: Right.

LINDA SHORTT: But then I also hope that the families will be provided protection. You know, that they will have the money in the escrow account that is richly theirs.

LESLIE K. ARRINGTON: Sure. And that's very understandable. Each well will have a meter on it. That's...we pay according to what comes out of that well.

LINDA SHORTT: Yeah. So, you would have to know what the protection is now and then once you do the horizontal into the well, you would have to know how much

production is going to be once you get the well done, right?

MARK SWARTZ: We're still going to have the meter on the wells that we currently have---.

LESLIE K. ARRINGTON: Yes.

LINDA SHORTT: Right. I understand.

MARK SWARTZ: ---and we're still going to pay on that.

LINDA SHORTT: Right. But you have a certain production amount---.

MARK SWARTZ: Now, there's going to be...now, there's going to be a new meter---.

LINDA SHORTT: On this---?

MARK SWARTZ: ---on new wells.

LINDA SHORTT: So these are new wells?

MARK SWARTZ: Correct.

LESLIE K. ARRINGTON: Yes, ma'am.

BENNY WAMPLER: It's not in the same well.

BILL HARRIS: Yeah.

BENNY WAMPLER: You're saying, and I don't know if you mean to be...you're saying it's the same well.

LINDA SHORTT: I think...I think Les kind of said he was going to put it into the corner of that well. Is that what you were saying?

BENNY WAMPLER: No, he's talking about...what

he...well, I'll let him describe it.

LINDA SHORTT: Go ahead. I'm sorry.

LESLIE K. ARRINGTON: Okay.

BENNY WAMPLER: He was saying he was trying to avoid hitting where they had fraced before.

LESLIE K. ARRINGTON: Right. Right. The legs... the red legs that you see on here, when I laid those out I intentionally laid those out to miss what we figured would be the frac wings of these existing frac wells. In doing so, I hope not to impact the production of any of the existing wells there now. And---.

LINDA SHORTT: Okay. But you will be withdrawing gas from these horizontal wells?

LESLIE K. ARRINGTON: Yes, ma'am.

LINDA SHORTT: Okay.

LESLIE K. ARRINGTON: And it will be coming out---
?

BENNY WAMPLER: And he will be paying on that.

LINDA SHORTT: A separate meter?

LESLIE K. ARRINGTON: Yes, ma'am.

MARK SWARTZ: Correct.

LINDA SHORTT: So the families will be notified if you have production from those horizontal wells, right?

MARK SWARTZ: Well---.

LINDA SHORTT: Are you going to notify the families that are being force pooled?

LESLIE K. ARRINGTON: Just like we did the force pooling originally, you'll get a second notice.

LINDA SHORTT: So the Board will come back---?

BENNY WAMPLER: They have to---.

LESLIE K. ARRINGTON: Yes, ma'am.

BENNY WAMPLER: ---come back before the Board, ma'am. All we're doing---.

LINDA SHORTT: Come back before the Board and redo that?

BENNY WAMPLER: All they're asking us today is to approve the unit...this---.

LINDA SHORTT: Right. I understand.

BENNY WAMPLER: ---unit here and that includes these boxes that's labeled like YZ and AA and BB.

LINDA SHORTT: I understand. Since those wells are within our unit that we have and they were force pooled before, I just wanted to make sure that the Board was aware that the families...we don't have anyway to know if there is production, if the well is successful---.

BENNY WAMPLER: You would have to be noticed again. You'd have another opportunity to---.

LINDA SHORTT: ---and if there would be someone to

oversee that to make sure that the families would get it because sometimes things just doesn't go that way.

BENNY WAMPLER: Well, the meter...all the information from the gas production comes into Mr. Wilson's office and it's individually metered.

LINDA SHORTT: Right. That's the reason I was appreciative of what he was saying. I just wanted to make it clear, you know, so the families would know what we...what we needed to do.

BENNY WAMPLER: Thank you.

MARK SWARTZ: Do you know what unit you're in?

LESLIE K. ARRINGTON: They're in this one.

MARK SWARTZ: Are you in 38 here?

LINDA SHORTT: 37.

MARK SWARTZ: Let me...let me just you what Les is...his concept is at this point. If you're in BB-38 or are you in---.

LINDA SHORTT: BB-37.

MARK SWARTZ: 37?

LINDA SHORTT: It's CC...CC-38.

MARK SWARTZ: CC-38.

LINDA SHORTT: CC-38 is proposed.

MARK SWARTZ: Les thinks you're in DD...in BB-38---.

LESLIE K. ARRINGTON: BB.

MARK SWARTZ: ---okay, which would be right here, I believe. No I take that back. I'm sorry. It's over here. BB-38 right here, okay? Okay, right here. As I read your map, Les, there's no well currently in there?

LESLIE K. ARRINGTON: No, there's not.

MARK SWARTZ: Okay. So, in your...if you're in BB-38, there is no existing well.

BENNY WAMPLER: But the leg will...the proposed leg would come under there---.

MARK SWARTZ: But the leg will...right.

LESLIE K. ARRINGTON: That's correct.

BENNY WAMPLER: ---a couple of times, both wells according to this map. I don't know how it looks on yours. You've got the big blowup.

MARK SWARTZ: Now, if you're in 37, that's over here, which isn't even in what we're proposing to effect. So, I'm trying to give you a specific answer as I can.

LINDA SHORTT: On this one right here, you're saying...what is this? Is that DD or BB?

MARK SWARTZ: BB.

LESLIE K. ARRINGTON: This is BB.

MARK SWARTZ: BB right here.

LESLIE K. ARRINGTON: Do you recall the well that

we originally flagged and we had some property discussions over?

LINDA SHORTT: Uh-huh. That's still existing.

LESLIE K. ARRINGTON: Well, that well...it's still existing? I just backed up...my well location is just backed up from that well now.

LINDA SHORTT: Yeah, you're within 200 feet. I mean to ask you is...of your own well. How close can you drill wells now? Has the law changed on---?

LESLIE K. ARRINGTON: Of this well?

LINDA SHORTT: Uh-huh.

LESLIE K. ARRINGTON: Well, we didn't drill this well---.

LINDA SHORTT: No, the one that you're proposing is like---.

LESLIE K. ARRINGTON: ---the BB-38.

LINDA SHORTT: ---200 feet within the other one.

LESLIE K. ARRINGTON: Right.

LINDA SHORTT: Right.

LESLIE K. ARRINGTON: We didn't drill that well.

LINDA SHORTT: Yeah, okay. But they're...you know, you were force pooling us so you can get the gas from the property, which is 57 acres.

LESLIE K. ARRINGTON: Right. That's correct.

LINDA SHORTT: Right.

BENNY WAMPLER: Thank you.

LINDA SHORTT: Thank you.

BENNY WAMPLER: Any---?

LINDA SHORTT: Thank the Board. You all let us know and keep us informed, will you?

BENNY WAMPLER: We sure will.

LINDA SHORTT: That will be your job, Bob.

JAMES MCINTRYE: You'd better do it too.

BENNY WAMPLER: She's got your number.

(Laughs.)

BOB WILSON: She does have my number as a matter of a fact.

LINDA SHORTT: Yes, I do. I...let me say one more thing. I would appreciate it if you all would have your names in front of you. I don't even know who I'm talking to today. I'm...it was nice. You asked me mine and I'd liked to know yours.

BENNY WAMPLER: We'll do that.

LINDA SHORTT: You need to make you all some plates.

BENNY WAMPLER: We'll do that.

LINDA SHORTT: Call the Governor and tell him we need some plates.

BENNY WAMPLER: We'll make some. You won't have to make that call.

LINDA SHORTT: So when I address you, I can say yes, yes and yes.

BENNY WAMPLER: That's a good suggestion. We use to do that.

JOSE SIMON: Let me ask one follow up question.

BENNY WAMPLER: Jose.

JOSE SIMON: Let's say you're trying to miss all of those wells. Let's say all of sudden production of one of the existing wells declines traumatically. How do you prove or disprove that it is because of the horizontal---?

LESLIE K. ARRINGTON: We'll probably see just as soon as we drill through by that well if we're going to impact that production. It will probably be immediate.

JOSE SIMON: Okay. And then what do you do? How do you---?

LESLIE K. ARRINGTON: Well---?

JOSE SIMON: Pay a settlement with the---.

LESLIE K. ARRINGTON: ---we'll work on that.

JOSE SIMON: Yeah. Okay. There's no set answer?

LESLIE K. ARRINGTON: That's correct.

JOSE SIMON: Okay.

CONNIE DAVIDSON: Is there anyway of knowing

when---?

COURT REPORTER: You have to come down here,
ma'am.

CONNIE DAVIDSON: Okay.

BENNY WAMPLER: I'm sorry. We can't pick you up
up there. Just be careful coming down those steps.

CONNIE DAVIDSON: Is there anyway of knowing when
we will be receiving our money that is in escrow from the
wells that have been drilled previously?

LESLIE K. ARRINGTON: Well, that money is in
escrow due to the lack of one, a Court decision or an
agreement between the parties, between you and whomever owns
the coal. So, you know, we don't have any control over
that. The only control we have is putting the money into
the escrow account.

CONNIE DAVIDSON: Uh-huh.

BENNY WAMPLER: Now, if you heard here today,
we've disbursed a lot of money.

CONNIE DAVIDSON: Yeah.

BENNY WAMPLER: And that has been where the
individual parties have signed agreements with the coal
owner to split at some ratio. Sometimes it's 50/50 and
sometimes, I guess, it may not be. I don't know exactly
what the split is. But that's what he's talking about.

LESLIE K. ARRINGTON: You could either contact Coal Mountain or us and we can give that---.

CONNIE DAVIDSON: Well, Mr. Glubiack is working on it.

LESLIE K. ARRINGTON: Okay.

BENNY WAMPLER: Any other questions?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

MARK SWARTZ: No.

BENNY WAMPLER: Do you have anything further?

BOB WILSON: Just to clarify, is this going to be...if you're asking for motions, is this going to relative to an Oakwood Rules modification or as filed, just for clarification?

BENNY WAMPLER: What did you propose?

(No audible response.)

BENNY WAMPLER: Is there a motion?

JAMES McINTRYE: Motion to approve as filed.

MARY QUILLEN: Second.

BENNY WAMPLER: Motion is second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Our lunch is here and we're going to take a...it's 12:30 almost. Can we do it by 1:00 o'clock? Is that too tight?

MARK SWARTZ: That's fine.

BENNY WAMPLER: We'll say 1:00 o'clock we'll reconvene.

(Lunch.)

BENNY WAMPLER: The next item on the agenda is a petition from CNX Gas Company, LLC for a modification of the Oakwood I Field Rules to allow for drilling of an additional well in units VV-20 and ZZ-29. This is docket number VGOB-93-0216-0325-06. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Les Arrington.

TIM SCOTT: Tim Scott for Geo Met.

BOB WILSON: Mr. Chairman.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: For the record, recognize the fact the fact that I've passed out letters to the Board from Sherry Lee Wilson, attorney for Linda McCoy, and from GEO Met, a letter signed by Joseph L. Stevenson, both objecting

to this hearing continuing today. The Board members have copies of both of those letters.

BENNY WAMPLER: Since this is a request not to go forward and failure to notice, I'm going to let you go first.

TIM SCOTT: Yes, sir. The request for increase density drilling clearly impacts Geo Met. They are a lessee through a farm-out agreement, which...in which they have drilling rights in unit E-32. Obviously, this would impact their ability to develop this well, but did not receive notice until the 28th day of April. So, we request a continuance until June.

BENNY WAMPLER: I need you to identify yourself for the record.

CLYDE LINDELL HORNE: All right.

BENNY WAMPLER: Just state your name for the record.

CLYDE LINDELL HORNE: Oh, I'm sorry. Clyde Lindell Horne.

BENNY WAMPLER: You can go ahead and make your statement.

CLYDE LINDELL HORNE: My statement is I oppose the proceedings going forward without my attorney present on my behalf. Also, I oppose the frac, stimulating or trespassing

of property that myself and my family own in fee, which is in the window of C-29.

BENNY WAMPLER: Mr. Swartz.

MARK SWARTZ: I wrote...Sherry Lee Wilson wrote to me and I responded to her by fax with regard to her continuance on May the 12th and getting an answer that she didn't like from me, I guess, she wrote to you on May the 15th. But what I told her was, "As you can see from the papers that you've received from your client regarding the referenced, a large number of persons and companies were notified of the hearing by certified mail and by publication. When there are numerous respondents involved, as there are here, it is our practice not to agree to join in on a request for a continuance." So, that's my position and I expressed that to her.

On Geo Met, is your farm-out of record? Do we know?

TIM SCOTT: Yes, it is.

MARK SWARTZ: Okay.

TIM SCOTT: Yes, it is.

MARK SWARTZ: We'll just take E-32 out of the mix and that solves their problem.

BENNY WAMPLER: What about...what's yours...what your number?

CLYDE LINDELL HORNE: C-29.

BENNY WAMPLER: What about C-29?

LESLIE K. ARRINGTON: That's fine.

MARK SWARTZ: No problem.

BENNY WAMPLER: To take it out of the mix?

MARK SWARTZ: Correct.

BENNY WAMPLER: Okay. Do you understand what we're doing?

CLYDE LINDELL HORNE: No.

BENNY WAMPLER: Explain what you're doing.

MARK SWARTZ: We're withdrawing our request to be allowed to drill additional wells in C-29.

CLYDE LINDELL HORNE: Thank you, sir.

BENNY WAMPLER: Thank you.

CLYDE LINDELL HORNE: Thank you.

BENNY WAMPLER: You may proceed.

TIM SCOTT: Thank you kindly.

MARK SWARTZ: Okay.

BENNY WAMPLER: C-29...and Geo Met's number was what?

TIM SCOTT: E-32.

BENNY WAMPLER: E-32.

(Off record.)

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, could you state your name for us, please?

A. Leslie K. Arrington.

Q. Who do you work for?

A. CNX Gas Company, LLC.

Q. What do you do for them?

A. Environmental permit manager.

Q. Okay. This particular matter that was called as this docket pertains to a request on behalf of CNX to be allowed to drill some additional wells in some units in the Oakwood Field, right?

A. Yes, it does.

Q. And have you described the units that would be affected in your notice of hearing and also in your application?

A. Yes, we have.

Q. Okay. And from that, by agreement sort of before we started or as we started, we have agreed to extract E-32, correct?

A. Yes.

Q. And C-29?

A. Correct.

Q. So, we just need to confirm that?

A. That's correct.

Q. Okay. The...I think you passed out an exhibit. I'm assuming you've already given it to the Board members.

A. Yes, we have.

Q. Okay. This should look fairly familiar to everyone because we've been here before. But let's start with the location of the units that would be affected by this application in relation to where we've gone before. Where are they located?

A. The units that we have done before are all shown in the stipple looking pattern. In particular, you'll notice over on the western side on the southwestern area. That's the area we were here two months ago on that...that we testified to. This month we're here for the red area. In all the other area around there, we've already been before the Board to do infield drilling on. Quite honestly, I intend to be here as we can get notice issues done to do all of the Oakwood Field that we have property on.

Q. But the area that we're back on today is the...sort of reddish area on the map that you passed out today?

A. Yes, it is.

Q. Okay. And could you give us an explanation of why it is that we've been requesting the right to do additional infield drilling and why we're here today and sort of the production issues related to that?

A. Yes. We did originally infield drill due to our mine plan. We started noticing as we tighter spaced the wells that not only did the new well production exceed its neighbor, its neighbor would also come up. So, that's the reason we have proposed the additional drilling in basically the Oakwood Field.

Q. And the charts that we have, which I know we've seen before and Rick Toothman has been here at times to talk about those, sort of compare your...well, not sort of, they do compare your well...your existing wells prior to infield drilling.

A. Yes.

Q. And the production from those wells to...and then you look at the production of the infield drilled wells and the effect, if any, that those wells have on the existing wells and...for example, in the center of the map, you can see that you've got in the grey your existing production.

A. Correct.

Q. And then there's sort of a...I guess, it's kind of a purple.

A. Right.

Q. And that would be your...your new wells, your infield wells?

A. Yes. And you'll notice at the existing wells, the production of the infield wells...as we started drilling those wells, you'll notice that the existing well production came up and it actually matched---

Q. Okay.

A. ---the production of our infield wells.

Q. And it would be great if that always happened. But if we come down to the chart on the bottom left, the existing wells, you know, have come and gone a little bit, but you don't have as good of...as good of a correlation?

A. That's correct.

Q. And then if we go over to the right, it looks like the trend on the existing wells is actually up and---?

A. It's coming up, yes.

Q. Okay. The...for some reason or another, we cannot seem to ever get our application language right. Although, I've had meetings in advance of your testimony---

A. Yes.

Q. ---to try to work through this with my pal over here, although she blames you, frankly.

A. Yes.

Q. And our application is slightly incorrect, again. But Mr. Wilson...we always rely on him to catch us and then jump out at the woods and scare us, you know, that we've...I forget what the term the Chairman used that you were doing. Sandbagging or---.

BOB WILSON: Blind siding.

Q. Blind siding, okay. But any event, we...for some reason or another---.

BOB WILSON: Are you going to deprive me of that?

Q. ---we keep coming back here and in the Section for proposed provisions of order, we are not seeking to drill outside of the drilling window. So, you know, the infield wells are going to have to be existing...in the existing windows. That has been the case and I think...I'm optimistic we're going to get it right the next time we come back. But I just needed to...is that correct, Les, we're not going to---?

A. We will attempt to have it correct.

Q. No, no---.

A. Oh. Yes.

Q. ---the location.

A. The location is at the this time, yes.

MARK SWARTZ: Okay. I think that's all I have,
Mr. Chairman.

BENNY WAMPLER: Questions from members of the
Board?

BILL HARRIS: Just a---.

BENNY WAMPLER: Mr. Harris.

BILL HARRIS: ---informational question about the
infield drilling. Do you...this is actually just off the
top of my head. If you were to drill two wells in one of
these units, would you notice...I mean, do you have any
theories on the production of gas? You know, we've been
drilling one on each of these. Of course, you all had found
that adding the second one actually appears to increase the
production of the first one. There's some kind of, you
know...kind of cooperative relationship going on there.
Have you ever thought about just drilling two to begin with?
Would
that---

LESLIE K. ARRINGTON: Well, actually, in---.

BILL HARRIS: Initially, I mean.

LESLIE K. ARRINGTON: I can't answer the question.
I can tell you that we have just in the past year, down in

this area when we first came in with the infield drilling, we had not drilled any wells.

BILL HARRIS: Okay. So, you drilled---?

LESLIE K. ARRINGTON: And so I will have, shortly, some data in that very area.

BILL HARRIS: Okay. I'm just sort of curious to see if---.

LESLIE K. ARRINGTON: We're still hooking up the pipelines and getting things put together in that area. But I do have that.

BILL HARRIS: But something that you said earlier sort of struck me. You said that what led to this was the fact that when you did do wells close to each other---.

LESLIE K. ARRINGTON: Yes.

BILL HARRIS: ---that you noticed an approved---.

LESLIE K. ARRINGTON: Yes. And what that was, originally in this area, that's where we had an existing mine plan. We had the wells---.

BILL HARRIS: You had vertical ventilation holes, yeah.

LESLIE K. ARRINGTON: We had them spaced out quite far. So, ever...we wouldn't degassing for the mine quite as well as we thought we should. So, we came back and drilled the wells even closer spacing. Then that's when we started

seeing the difference.

BILL HARRIS: You realized the increase?

LESLIE K. ARRINGTON: Yes.

BILL HARRIS: Okay. Thank you.

BENNY WAMPLER: Other questions?

BOB WILSON: Mr. Chairman.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: My turn. Another...I have very recently been asked this and I eluded to it earlier in another docket number relative to elections and force pooled units. When the second well is drilled, do the folks, say if they are people who had elected to participate, would they automatically be expected to participate in that second well? Would they get new elections if folks have been force pooled and did not elect to participate the first time around? Do they get new elections the second time around? What's the status of that second well in a force pooled unit?

MARK SWARTZ: If it is a force pooled unit, we only have the authority to drill one well, so we have to come back.

BOB WILSON: I don't think so.

LESLIE K. ARRINGTON: No.

MARK SWARTZ: You don't?

LESLIE K. ARRINGTON: No. If someone is participating in that unit, we will have to come back and request additional election---.

MARK SWARTZ: Oh, okay. Okay.

LESLIE K. ARRINGTON: ---for the second well.

MARK SWARTZ: So, you're talking about participants.

LESLIE K. ARRINGTON: Yeah.

BOB WILSON: Well, basically, participants and whether or not there is a separate election to participate in that second well. I'm actually kind of passing along the question here that I haven't been able to answer.

LESLIE K. ARRINGTON: I can't answer that.

BENNY WAMPLER: Well, I would think the Board order would give them an election option.

BOB WILSON: But in most cases, the unit...the cases that I have had the opportunity to look at, the unit was pooled for one well. The order went out with that estimate for one well---.

BENNY WAMPLER: Right.

BOB WILSON: ---and the elections were based on that initial order.

BENNY WAMPLER: Right.

BOB WILSON: Then we have...we, the Board, has

approved second wells in each of these units in other areas after that pooling and after elections were made.

BENNY WAMPLER: Oh, I see what you're saying.

(Off record.)

MARK SWARTZ: I think what we---.

BENNY WAMPLER: Go ahead.

MARK SWARTZ: You know, this question has come up before. I'm sort of sitting here reflecting on it.

BOB WILSON: Yeah.

MARK SWARTZ: I think what...what we've done in the past is if people participated in the past, they're already a partner in the unit and we have to go to them with the additional development and get their...you know, do you want a piece of this action or not? I mean, but they're already a partner in that unit with us. I don't know, as we sit here today, if people in this red area, you know, have already participated. But I can tell you that if people didn't become a partner in the development in the beginning, we haven't historically gone back to them because, you know, they didn't become a partner.

BOB WILSON: But, again, the question is they based their original participation on the estimate of the one well per unit.

MARK SWARTZ: Which was...well, which was accurate

at that time.

BOB WILSON: Yeah, sure. But if you go back and bill them for a second well, that's an expense that they weren't anticipating. I don't...I don't know the answer---

LESLIE K. ARRINGTON: You talked about on a operator, a participating operator or a carried operator?

BOB WILSON: Yes, sir.

LESLIE K. ARRINGTON: Well, at that point since we're going to have to come back, if they're participating and request the additional costs for the other well and they get the option to participate, I would think.

MARK SWARTZ: Well, I mean, it's...it's...I mean, traditionally, if you've got a partner in a well...say you've got another operator or a participating operator, you would normally give them notice of a proposed operation and they would have an opportunity to buy into it. That's what I would expect that we would do because we would say, you know, you're in this unit with us. Here's our next development phase. Do you want a piece of it or not? I mean, that's what would happen. Now, is that an election option or not. I mean, they are already a partner in the unit and I think we would go them. But if they didn't participate in the beginning, we've got nobody to ask permission of to do additional development because nobody is

going to be writing a check for it. So, it's kind of like the traditional oil and gas unit under a joint operating agreement where you've given them notice that you're...well, it's just like reworking the well, you know. Do you want to...do you want to go down to the five seam with this well that went to the 3 seam. You know, you would tell them and they could either get in or not. Do you follow me?

BENNY WAMPLER: Well, the more interesting question would be now that I've seen your production doing well in that unit and you're going to put another one in, why wouldn't I buy into the second one?

BOB WILSON: That's actually the root of the question.

BENNY WAMPLER: Yeah. I think that's the bottom line.

MARK SWARTZ: It's sort of like saying to me, I see your ticket is the winning lottery ticket and I like a piece of it, you know. I don't know what the answer to that is. But, you know, we're not going to say---

BENNY WAMPLER: I don't know either.

MARK SWARTZ: ---you know, hop on. I mean, I sort of look at it the traditional way, you either get in or you're not in, you know. But, you know, you're the final say in that.

JIM KAISER: So the position would be, you're stuck with your initial election---?

MARK SWARTZ: Yeah.

JIM KAISER: ---whatever that might be?

JOSE SIMON: Well, as for the first well, I think you have to look at it differently from the second well and give them same opportunity.

MARY QUILLEN: But when they bought in...Mr. Chairman, when they bought into this initial well, are they buying in only for that one well in that unit or all of the activity in that unit and have the option of, you know, becoming a partner and, you know, participating as, you know, not only with the rewards but the---.

BILL HARRIS: Yeah. The only thing is when they bought in---.

MARY QUILLEN: ---liability for---.

BILL HARRIS: I'm sorry.

MARY QUILLEN: ---developing and the---.

BILL HARRIS: And the risks.

MARY QUILLEN: That's right. Uh-huh.

BILL HARRIS: Well, but when they made the first election on the first well, to their knowledge that was the only well. With the second one coming on Board, I don't know if we should automatically assume they would want to

participate---.

JOSE SIMON: Or not.

BILL HARRIS: ---or not.

MARY QUILLEN: So, they should have that option.

MARK SWARTZ: Well, you can't participate in the well that's already...I mean, you've already blown past it.

BILL HARRIS: No. Right.

MARK SWARTZ: No, I'm just saying though. So, you've already blown past that. So, you know, the question is...really to me is if you wanted to be in this...in this unit in terms of an investor, should you get repeated opportunities to invest, you know? And the typical situation, historically in this country has been, you either get in or you don't get in. If you're in, then when there's additional development in the unit, you give notice and you're told roughly what's going to cost and then you can pass on that. For example, you know, you could be participating in the first well and say I don't want to buy into the second or you're in the first one and I don't want to buy into the second one.

BILL HARRIS: Okay. So, the vice versa you're allowing them because that was the...one of the---?

JIM KAISER: That was the initial elections.

MARK SWARTZ: Right.

MARY QUILLEN: Well, one of the question, what if they didn't buy into that first well and now you're drilling this second well and they...do they have an opportunity to buy in or if they weren't in on the ground floor then they---?

MARK SWARTZ: We wouldn't...we wouldn't voluntarily offer them an opportunity to buy in because they didn't get in when the train left the station. I mean, that would be our position as an operator.

JIM KAISER: I would agree with that.

MARK SWARTZ: Well, that's what we've done, you know.

JIM KAISER: I mean, the circumstances change all the time. Look at gas prices. There's probably people that didn't---.

MARY QUILLEN: Right.

JIM KAISER: ---elect the first time to participate---.

MARY QUILLEN: Right.

JIM KAISER: ---that now would say, oh, boy, I probably should have done that, you know, because gas is seven or eight dollars.

MARY QUILLEN: So, hide sight doesn't---.

JIM KAISER: I don't know why they should get two

bites at the apple.

JOSE SIMON: Well, it's a new apple. It's a new well.

JIM KAISER: No, it's not. It's the same unit.

JOSE SIMON: It's a new well though.

BILL HARRIS: Well, when they sign their first agreement though it was based on one well in that unit. So, to them the unit was that one well. Now that there is a second well and potential for an increase in profits, I don't know that...that we can exclude them from making decisions there.

LESLIE K. ARRINGTON: But that's only for participators.

MARK SWARTZ: Say what?

LESLIE K. ARRINGTON: But that's only for participators.

MARK SWARTZ: Yeah, we're not arguing about that with participators. We're just saying, if you didn't get in the deal to begin with, we do not believe that we need to offer them another opportunity to participate.

BILL HARRIS: (Inaudible) opportunity to get in.

MARK SWARTZ: Yeah, I think...you know, I don't have the statute in front of me. But, I guess, we---.

JIM KAISER: What vehicle would use to allow that

other options...that second option? You don't have to repool it. You've already got your unit. You've already got either a 100% leased or a 100% pooled.

MARK SWARTZ: But, I guess, where I'm coming from is, you know, I'd have to look at the statute. I haven't really looked at it in this context. But the statute tells you what you have to offer when you're interacting with people...when you're pooling a unit.

BENNY WAMPLER: We'll make a part of the order whatever...whatever---.

MARK SWARTZ: It doesn't...it doesn't...my recollection is it doesn't say every time you change your development plan you've got to give people another election. So, I guess, you know, we proceeded on...although, you know, conceptionally I probably haven't looked at this for fifteen years, you know. But we've proceeded on an assumption that once you pool people... when you pool people, you have to afford them their at statutory elections and your order definitely does that. What Kiser and I are talking about, the practice in the industry has been once that election has come and gone, you've met your statutory obligation to people to the extent that they can get in or not. Now, then the second question, which is another question, is can you force people to step up to the plate and spend more money

for another well and our historic answer to that has been, no, they're going to be told that this is coming and they can make...they can sign on for that piece of the action or not if they've already participated, but we're not going to say you have to. Now, if it's the existing well that they're in and there's a problem and it has to be, you know, serviced or---.

MARY QUILLEN: Right.

MARK SWARTZ: ---you know, they're a partner in that well.

MARY QUILLEN: That's right.

MARK SWARTZ: But that's...you know, the statutory elections, I mean, the real issue that I think we're sort of coming back at is, how many times do you have to give the statutory elections?

BENNY WAMPLER: Right.

MARK SWARTZ: You only need to give it once when the unit is pooled or do you need to give it every time, you know, the nature of the operations on the unit change and you can see where we're coming from. But I certainly will...you know, will look at the interim and I assume you will as well. But that's...you know, that's been our thinking.

MARY QUILLEN: Well, another question is, what are

the percentages of people that are...that want to be partners. Is it very low?

MARK SWARTZ: Up until recently, it was essentially zero, okay. And then...and then recent---

MARY QUILLEN: Yeah, that's what I was thinking. It probably is not a big problem.

MARK SWARTZ: Well, it has changed. I mean, there are people participating now. You know, if you'd asked me this question a couple of years ago, I would have said it's essentially zero and that would have been a true answer. Recently, because of gas prices, people are looking at these and the risk is less scarier because the reward is potentially greater.

MARY QUILLEN: Greater, right. Yeah.

MARK SWARTZ: And so there are people participating almost regularly. I mean, not a huge number. But we...it's not like it use to be where once in a blue moon somebody would.

JIM KAISER: Well, and how far do you go with it? That's a good point. I mean, it's a risk/reward analysis that each force pooled party has to make. You're kind of changing the whole equation when they've already got the benefit of one well to look at. I mean, did they really...are you being unfair if you don't give them an

option on that second one because it's not the same analysis anymore. It's a completely different analysis and most the risk...I don't think you're being fair to the operator in that situation, I guess, would be my point. The whole fairness thing is shifted.

MARK SWARTZ: Well, I will say though that in coalbed methane, let's face it, the risks are not what they are in conventional and never have been, you know. And---.

JIM KAISER: Well, maybe risk is the wrong word. Maybe the word should be opportunity (inaudible).

MARK SWARTZ: Right, right. You're correct. Now, that's changed.

JIM KAISER: Yeah.

MARK SWARTZ: That has changed. But I think, you know, my focus, you know, and I'll certainly be looking at this just out of curiosity, you know, is does the statute really give us any guidance in terms of those election options and how many times do you have to, you know, honor that?

BENNY WAMPLER: Well, we'll have our attorney research that specific question and our order will reflect the law. How is that?

MARK SWARTZ: Assuming there's an answer to be obtained.

BENNY WAMPLER: Or a legal opinion, one way or the other.

MARK SWARTZ: There you go. That's different. That's different. Everybody has got an opinion, you know.

BENNY WAMPLER: Do you have anything further?

MARK SWARTZ: No.

BENNY WAMPLER: Any questions from members of the Board?

(No audible response.)

BENNY WAMPLER: I will ask Ms. Pigeon to research this and reflect in the order the statute. If...if her belief is different, Mr. Swartz, I will have her discuss that with you. But, nevertheless, the order we draft will be based on an opinion or statute, one or the other. Is there a motion?

DONNIE RATLIFF: So moved, Mr. Chairman.

BENNY WAMPLER: Motion and a---.

JAMES MCINTRYE: Second to approve.

BENNY WAMPLER: ---second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval.

BOB WILSON: Mr. Chairman, that was approved with the exception of unit C-29 and B-32, is that correct?

BENNY WAMPLER: Yes.

DONNIE RATLIFF: That's correct.

JOSE SIMON: Right.

MARK SWARTZ: Right.

BENNY WAMPLER: The next item on the agenda is a petition from CNX Gas, LLC for repooling of coalbed methane unit B-25. This is docket number VGOB-01-1016-0933-01. We'd ask that the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Les Arrington.

BENNY WAMPLER: The record will show no others. You may proceed.

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, you need to state your name for us, again.

A. Leslie K. Arrington.

Q. Who do you work for?

A. CNX Gas Company, LLC.

Q. What do you do for them?

A. Manager of environmental and permitting.

Q. Is CNX Gas Company a Virginia General Partnership?

A. Yes, it is.

Q. Is it authorized to do business in the Commonwealth?

A. Yes.

Q. Is CNX the applicant?

A. Yes, it is.

Q. And is CNX requesting that if they...if this repooled, that CNX continue to be the designated operator?

A. Yes.

Q. Okay. Does CNX have a blanket bond on file?

A. Yes, it does.

Q. Has it registered with the DMME?

A. Yes, it has.

Q. To the extent that there any election options here, what would be the standard lease terms that you would recommend?

A. For our standard coalbed methane lease, it's a dollar per acre per year with a five year paid up term with a one-eighth production royalty.

Q. Did you sign both the notice of hearing and the application?

A. Yes, I did.

Q. And did you either prepare everything within those two items or cause it to be prepared under your supervision?

A. Yes, I did.

Q. Okay. What did you do to tell people we were going to have a hearing today?

A. It was published in the Bluefield Daily Telegraph on April the 25th, 2006 and it was mailed by certified mail, return receipt requested on April 14, 2006.

Q. And have you filed proofs in that regard with regard to publication and with regard to mailing with Mr. Wilson?

A. Yes, we have.

Q. We were just talking about one respondent I take it?

A. We are.

Q. This is being repooled. What's the reason for that?

A. We had to do a small amount of remapping in this area.

Q. Okay. And is the only person whose percentage changed as a result of the remapping who was force pooled, the respondent?

A. Yes, it was.

Q. So, if anybody else's percentages changed, you have a lease from them?

A. We do.

Q. And have you reported the percentages that you've leased or that are not at issue and the percentages that you're seeking to pool with the application today on Exhibit A, page two?

A. Yes, they are.

Q. And what are...what are we looking to pool here?

A. We're seeking to pool...we have leased 99.7875% of the coal, oil and gas owner's claim to coalbed methane. We're seeking to pool 0.2125% of the oil and gas owner's claim to coalbed methane.

Q. This is an Oakwood I unit?

A. Yes, it is.

Q. 80 acres?

A. Yes.

Q. One well is proposed?

A. Yes, it is.

Q. And that's a frac well?

A. Yes, it is.

Q. It's inside the window?

A. It is.

Q. What's your cost estimate?

A. It was \$207,803.54 to a depth of 2596 feet.

Permit number is 6705.

Q. Okay. And the...those were the...the dollars were the original dollars?

A. Yes, it is.

Q. So, it's just getting an election option at the original money?

A. Yes.

Q. Okay. There is no escrow required for Tract 6 that she's in?

A. No.

Q. So, she can be paid directly?

A. She can.

Q. Do you want to add any respondents?

A. No.

Q. And, obviously, you don't want to dismiss her?

A. No.

Q. Okay. Is the plan disclosed by the application and exhibits, a reasonable plan to develop the coalbed methane in this unit?

A. Yes, it is.

Q. And given the remapping, the leasing and the prior pooling order, is it your opinion that if there's another order modifying Juanita Matney's interest in accordance with the remapping, that all correlative interest will be protected?

A. Yes, it will be.

MARK SWARTZ: That's all I have, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

JAMES McINTRYE: Motion to approve.

JOSE SIMON: Second.

BENNY WAMPLER: Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Next is a petition from CNX Gas Company, LLC for repooling of coalbed methane unit B-20. This is docket number VGOB-04-1019-1342-01. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Les Arrington.

BENNY WAMPLER: The record will show no others. You may proceed.

MARK SWARTZ: I'd like to incorporate Mr. Arrington's testimony from the last hearing with regard to the applicant and operator information, standard lease terms and his employer.

BENNY WAMPLER: That will be incorporated.

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, you need to state your name, again.

A. Leslie K. Arrington.

Q. This is a repooling as well?

A. Yes, it is.

Q. And the reason?

A. We have...we have lost a lease on this one.

Q. Okay. So, you had a lease with them and now you don't?

A. Right.

Q. Okay. And they are in Tract Number 2, the respondents?

A. I believe...yes, they are.

Q. Okay. And they have a fee interest, so there wouldn't be an escrow requirement?

A. That's correct.

Q. Okay. This is an Oakwood I unit?

A. Yes, it is.

Q. We're talking about one well in a window?

A. Yes, it is.

Q. It's a frac well?

A. Yes, it was.

Q. How many acres?

A. 80.

Q. What did you do to let the Welches know that there was going to be a hearing today?

A. We published in the Bluefield Daily Telegraph on April the 26th, 2006 and mailed certified mail April 14, 2006.

Q. Okay. Have you filed proofs with regard to publication and mailing with Mr. Wilson?

A. Yes, we have.

Q. What interest have you acquired and what are you seeking to pool?

A. We've acquired 98.55% of the coal, oil and gas owner's claim to coalbed methane. We're seeking to pool 1.45% of the coal, oil and gas owner's claim to coalbed methane.

Q. What's your estimate with regard...what was your estimate with regard to costs?

A. \$214,904.45. Depth is 1835 feet and the permit number 6347.

Q. Okay. Do you want to add anybody or dismiss anybody?

A. No, we do not.

Q. Okay. Is it your opinion that the plan for development, which is to drill one frac well in the window of this 80 acre unit, is a reasonable development plan to produce the coalbed methane?

A. Yes, it is.

Q. And if we couple the former pooling order with your leasing efforts and order which would pool Cara Welch and Mark Welch, is it your opinion that the correlative rights of all owners and claimants would be protected?

A. Yes, it will.

MARK SWARTZ: That's all I have.

BENNY WAMPLER: Is that who you lost the lease
with---?

LESLIE K. ARRINGTON: Yes.

BENNY WAMPLER: ---Cara Welch and Mark Welch?

LESLIE K. ARRINGTON: Uh-huh. Yes, sir.

BENNY WAMPLER: Any questions from members of the
Board?

JOSE SIMON: Just out of curiosity, why?

LESLIE K. ARRINGTON: Someone must have overlooked
it and before we had time to get out there and get it
renewed.

MARK SWARTZ: So it expired?

LESLIE K. ARRINGTON: Yes, it did expire.

JOSE SIMON: Okay.

BENNY WAMPLER: Is there a motion?

JAMES MCINTRYE: Motion to approve.

JOSE SIMON: Second.

BENNY WAMPLER: Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying
yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Next is a petition from CNX Gas Company, LLC for pooling of coalbed methane unit B-18, docket number VGOB-06-0516-1630. We'd ask the parties that wish to address the Board in this matter to come forward.

MARK SWARTZ: Mark Swartz and Les Arrington.

BENNY WAMPLER: The record will show no others.
You may proceed.

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. Les, do we need to dismiss Equitable here in this one?

A. I'm sorry?

Q. Do we need to dismiss Equitable---?

A. Yes, we do.

Q. ---in this one?

A. Yes.

Q. Okay. And the reason for that?

A. They didn't have a lease.

Q. Okay. Would you state your name for us, please?

A. Leslie K. Arrington.

Q. And did you...did you sign the notice of hearing and the application with regard to this matter?

A. Yes, I did.

Q. And did you either prepare the documents or cause them to be prepared under your supervision?

A. Yes, I did.

Q. Okay. What did you do to notify the respondents and others that there was going to be a hearing today?

A. We published in the Bluefield Daily Telegraph on April 27, 2006 and mailed by certified mail return receipt on April 14, 2006.

Q. Okay. And what did...and did you file proofs of publication and proofs of mailing with Mr. Wilson?

A. Yes, we did.

Q. And do you want to add anybody as a respondent today?

A. No.

Q. And you previously indicated that we need

to dismiss Equitable Production?

A. Yes.

Q. Okay. Is this an Oakwood I unit?

A. Yes, it is.

Q. How many acres?

A. 80.

Q. And where is the well in relation to the drilling window?

A. It's within the window.

Q. What is your cost estimate?

A. \$227,568.13 to a depth of 2515. The permit number is 6746.

Q. What have you leased and what are you seeking to pool?

A. We've leased 99.8458% of the coal owner's claim to coalbed methane and 97.9666% of the oil and gas owner's claim to coalbed methane. We're seeking to pool 0.1542% of the coal owner's claim to coalbed methane and 2.0334% of the oil and gas owner's claim to coalbed methane.

Q. And there's no escrow requirement in this unit?

A. No.

MARK SWARTZ: Okay. Mr. Chairman, I'd like to incorporate Mr. Arrington's testimony from an earlier

hearing with regard to the applicant and operator, standard lease terms and his employment.

BENNY WAMPLER: That will be incorporated.

MARK SWARTZ: That's all I have.

BENNY WAMPLER: And was this to add the Carl Welch and...Cara Welch and Mark Welch back in?

MARK SWARTZ: Actually, this is a pooling. This is not a repooling, I don't think.

LESLIE K. ARRINGTON: This is just...this one is to pool B-17.

BENNY WAMPLER: I'm sorry.

MARK SWARTZ: That's okay.

BENNY WAMPLER: That's correct.

MARK SWARTZ: It's all right. It's the same folks, but different scenario.

BENNY WAMPLER: Same folks, yeah. Other questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

JAMES MCINTRYE: Motion to approve.

JOSE SIMON: Second.

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Next is a petition from CNX Gas Company, LLC for pooling of coalbed methane unit AZ-103. This is docket number VGOB-06-0516-1631. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

MARK SWARTZ: Mark Swartz and Les Arrington.

BENNY WAMPLER: The record will show no others. You may proceed.

MARK SWARTZ: I'd like to incorporate Les' testimony with regard to the applicant and operator, standard lease terms and his employment.

BENNY WAMPLER: That will be incorporated.

LESLIE K. ARRINGTON

DIRECT EXAMINATION

QUESTIONS BY MR. SWARTZ:

Q. You need to state your name again for us?

A. Leslie K. Arrington.

Q. Did you sign the notice of application and the applic...notice of hearing and the application?

A. Yes, I did.

Q. And did you either prepare the documents and those...contained within those items or have them prepared under your supervision?

A. Yes, we did.

Q. This is a Nora unit?

A. Yes, it is.

Q. How many acres?

A. 58.78.

Q. And this is one where the one is outside the window?

A. Yes, it is.

Q. Okay. Do you recall what the explanation for this well location is?

A. That's a topographic location actually picked by the surface owner.

Q. Okay. What's your well cost estimate?

A. \$225,282.12 to a depth of 2771.

Q. And you don't have a permit yet?

A. No, we do not.

Q. Okay. What are you...what have you obtained in terms of interest and what are you seeking to pool?

A. We have 100% of the coal owner's claim to coalbed methane leased. 90.9266% of the oil and gas owner's claim to coalbed methane. We're seeking to pool 9.0734% of the oil and gas owner's claim to coalbed methane.

Q. You've got some escrow requirements here?

A. Yes, for Tract 1C, 1D, 1E, 1F and 1J. And escrows for unknown for 1C and 1F.

Q. Okay. And then we've got some split agreements for what tracts?

A. 1A, 1B, 1C, 1F, 1G, 1H, 1I, 1K and 1L.

Q. Okay. And with regard to the split agreements, are you requesting that the Board's order provide that you be allowed to pay those people directly and not be required to escrow their funds?

A. Yes, we are.

Q. Is it your opinion that the drilling of a well...one well in this unit and fracing it is a reasonable way to produce the gas from this unit?

A. Yes, we are.

Q. And if you combine your leasing activities with a pooling order here pooling the respondents that we've named and the percentages that we've identified, is it your opinion that the correlative rights of all owners and claimants would indeed be protected?

A. Yes, it would.

MARK SWARTZ: That's all I have.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

JAMES MCINTRYE: Motion to approve.

JOSE SIMON: Second.

BENNY WAMPLER: Motion is second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Thank you.

MARK SWARTZ: Thank you all.

BENNY WAMPLER: Next is a petition from Equitable Production Company for pooling of conventional gas unit V-550447, docket number VGOB-06-0516-1632. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman and members of the Board, Jim Kaiser and Don Hall on behalf of Equitable Production Company. We'd ask that Mr. Hall be sworn at this time.

(Don Hall is duly sworn.)

BENNY WAMPLER: The record will show no others. You may proceed.

DON HALL

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Hall, if you could state your name for the Board, who you're employed by and in what capacity?

A. My name is Don Hall. I'm employed by Equitable Production Company as District Landman.

Q. Do your responsibilities include the land involved in this unit and in the surrounding area?

A. Yes.

Q. Are you familiar with Equitable's application seeking the establishment of a unit and the pooling of any unleased interest in that unit for EPC well V-550447, which was dated April the 14th, 2006?

A. Yes.

Q. Does Equitable own drilling rights in the unit involved here?

A. We do.

Q. And prior to filing the application, were efforts made to contact each of the respondents within the unit and an attempt made to work out a voluntary lease agreement with them?

A. Yes.

Q. What is the interest of Equitable under lease in the unit?

A. We have 66.41% leased.

Q. Are all the unleased parties set out at Exhibit B-3 to the application?

A. Yes.

Q. Are you familiar with the ownership of drilling rights of parties other than Equitable underlying this unit?

A. Yes.

Q. And what is the interest that remains

unleased?

A. 33.59% remains unleased.

Q. And that just represents the interest in Tract 3?

A. That's correct.

Q. Okay. There are no unknown or unlocateable interest owners?

A. No.

Q. In your professional opinion, was due diligence exercised to locate each of the respondents named?

A. Yes.

Q. Are the addresses set out in Exhibit B to the application the last known addresses for the respondents?

A. They are.

Q. Are you requesting this Board to force pool all unleased interest as listed at Exhibit B-3 to the application?

A. Yes.

Q. Now, are you familiar with the fair market value of drilling rights in the unit here and in the surrounding area?

A. Yes.

Q. Could you advise the Board as to what those are?

A. We pay a five dollar bonus, a five year term with a one-eighth royalty.

Q. In your opinion, do the terms just testified to represent the fair market value of and the fair and reasonable compensation to be paid for drilling rights within this unit?

A. They do.

Q. Now, as to the unleased respondents listed at Exhibit B-3, do you agree that they be allowed the following statutory options with respect to their ownership interest within the unit: 1) Participation; 2) a cash bonus of five dollars per net mineral acre plus a one-eighth of eight-eighths royalty; or 3) in lieu of a cash bonus and one-eighth of eight-eighths royalty share in the operation of the well on a carried basis as a carried operator under the following conditions: Such carried operator shall be entitled to the share of production from the tracts pooled accruing to his interest exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto of such tracts, but only after the proceeds applicable to his or her share equal, A) 300% of the share of such costs applicable to the interest of the carried operator of a leased tract or portion thereof; or B) 200% of the share of such costs applicable to the

interest of a carried operator of an unleased tract or portion thereof?

A. Yes.

Q. Do you recommend that the order provide that all elections by the respondents be in writing and sent to the applicant at Equitable Production Company, 1710 Pennsylvania Avenue, Charleston, West Virginia 25302, Attention: Leslie Smith, Regulatory?

A. Yes.

Q. Should this be the address for all communications with the applicant concerning any order?

A. Yes.

Q. Do you recommend that the order provide that if no written election is properly made by a respondent, then that respondent should be deemed to have elected the cash royalty option in lieu of participation?

A. Yes.

Q. Should unleased respondents be given 30 days from the date that they receive the Board order to file their written elections?

A. Yes.

Q. If an unleased respondent elects to participate, should they be given 45 days to pay their proportionate share of well costs?

A. Yes.

Q. Does the applicant expect the party electing to participate to pay in advance that party's share of actual completed well costs?

A. Yes.

Q. Should the applicant be allowed a 120 days following the recordation date of the Board order and thereafter annually on that date until production is achieved, to pay or tender any cash bonus or delay rental becoming due under any force pooling order?

A. Yes.

Q. Do you recommend that the order provide that if a respondent elects to participate but fails to pay their proportionate share of well costs, then that election to participate should be treated as having been withdrawn and void and such respondents should be treated as if no initial election had been filed under the force pooling order, in other words, deemed to have leased?

A. Yes.

Q. Do you recommend that the order provide that where a respondent elects to participate but defaults in regard to the payment of well costs, any cash sum that's due that respondent be paid within...by the applicant...the operator within 60 days after the date on which that

respondent could have paid those costs?

A. Yes.

Q. This is a conventional well. We don't have any unknown or unlocateable interest. So, the Board does not need to establish an escrow account?

A. That's correct.

A. And who should be named operator under any force pooling order?

A. Equitable Production Company.

Q. And what is the total depth of this well under the plan of development?

A. It's 5,080 feet.

Q. And the estimated reserves for the unit?

A. 250 million cubic feet.

Q. Has an AFE been reviewed, signed and submitted to the Board as Exhibit C to the application?

A. It has.

Q. In your opinion, does it represent a reasonable estimate of the well costs?

A. Yes.

Q. Could you state for the Board both the dry hole costs and completed well costs for this well?

A. The dry hole costs is \$245,869 and the completed well costs is \$481,616.

Q. Do these costs anticipate a multiple completion?

A. Yes.

Q. Does your AFE include a reasonable charge for supervision?

A. It does.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation, the prevention of waste and the protection of correlative rights?

A. Yes.

JIM KAISER: Nothing further of this witness at this time, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

JAMES MCINTRYE: Motion to approve.

BENNY WAMPLER: Motion to approve. Is there a second?

MARY QUILLEN: Second.

BENNY WAMPLER: Any discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes, but

Donnie Ratliff.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

DONNIE RATLIFF: I'll abstain, Mr. Chairman.

BENNY WAMPLER: One abstention, Mr. Ratliff. Next is a petition from Equitable Production Company for pooling of coalbed methane unit VC-537048, docket number VGOB-06-0516-1633. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman and Board members, again, Jim Kaiser and Don Hall on behalf of Equitable Production. And by way of background, this will be the first of the next five that Equitable has, they're all in some way Yellow Popular units.

DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Hall, again, if you'd state your name for the Board, who you're employed by and in what capacity?

A. My name is Don Hall. I'm employed by Equitable Production Company as District Landman.

Q. Are you familiar with the application Equitable filed seeking to pool any unleased interest in the

unit for well VC-537048, which was dated April the 14th, 2006?

A. Yes.

Q. Does Equitable own drilling rights in the unit here?

A. We do.

Q. And prior to filing the application, were efforts made to contact each of the respondents within the unit and an attempt made to work out a voluntary lease agreement?

A. Yes.

Q. What is the interest of Equitable in the gas estate within the unit?

A. We have 0% in the gas estate.

Q. And what is the interest of Equitable in the coal estate?

A. We have a 100% of the coal estate leased.

Q. And the unleased parties that are set out in B-3?

A. Yes.

Q. Okay. And, again, I guess just quickly, do you want to go through the Yellow Popular situation and then we won't address it in any form---.

BENNY WAMPLER: Yeah, for the record.

Q. ---but for the record.

A. Yes. Yellow Popular filed bankruptcy in the 1920s, I believe it was. Galley Friend was appointed Trustee to convey the properties out of the bankruptcy and for some reason or other, these properties didn't get conveyed. So, our title attorneys tell us that this property is in the...basically, in the stockholders of Yellow Popular, whoever they were in the 1920s. We've... we've researched this from Virginia all the way to South Carolina to try figure out what the status of this property is and have failed to find anything beyond what we've already found.

Q. Are you requesting this Board to force pool all unleased interest listed at Exhibit B-3?

A. Yes.

Q. Are you familiar with the fair market value of drilling rights in the unit here and in the surrounding area?

A. Yes.

Q. Could you advise the Board as to what those are?

A. A five dollar bonus, a five year term with a one-eighth royalty.

Q. In your opinion, do the terms you just testified to represent the fair market value of and the fair

and reasonable compensation to be paid for drilling rights within this unit?

A. They do.

JIM KAISER: Mr. Chairman, at this time, I'd ask that the testimony that was taken just previously in docket number 1632 regarding the statutory election options afforded any unleased party and the different obligations that creates on them and the operator be incorporated for purposes of this hearing.

BENNY WAMPLER: That will be incorporated.

Q. Mr. Hall, the Board does need to establish an escrow account, obviously, in this case?

A. Yes.

Q. We have both an unknown interest and a conflicting claim?

A. That's correct.

Q. Okay. And who should be named operator under any force pooling order?

A. Equitable Production Company.

Q. And what's the total depth for this well under the plan of development?

A. 2492 feet.

Q. And the estimated reserves for the unit?

A. 230 million cubic feet.

Q. And you're familiar with the AFE that has been reviewed, signed and submitted to the Board as Exhibit C?

A. Yes.

Q. And does...in your opinion, does the AFE represent a reasonable estimate of the well costs?

A. It does.

Q. Could you state for the Board the well costs for this well?

A. The dry hole cost is \$161,331 and the completed well cost is \$391,659.

Q. And do these costs anticipate a multiple completion?

A. They do.

Q. Does your AFE include a reasonable charge for supervision?

A. Yes.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation, the prevention of waste and the protection of correlative rights?

A. Yes.

JIM KAISER: Nothing further from this witness at this time, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

MARY QUILLEN: Mr. Chairman.

BENNY WAMPLER: Ms. Quillen.

MARY QUILLEN: Would you restate the depth of well?

DON HALL: 2492 feet.

MARY QUILLEN: 2492?

DON HALL: Yes.

MARY QUILLEN: Thanks.

BENNY WAMPLER: Other questions?

(No audible response.)

BENNY WAMPLER: Is there a motion?

JAMES MCINTRYE: Motion to approve.

BILL HARRIS: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes, but Donnie Ratliff.)

BENNY WAMPLER: Opposed, say no.

DONNIE RATLIFF: I'll abstain, Mr. Chairman.

BENNY WAMPLER: One abstention, Mr. Ratliff. The next item on the agenda is a petition from Equitable

Production Company for pooling of coalbed methane unit VC-537050. This is docket number VGOB-06-0516-1634. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Hall, is this another Yellow Popular unit?

A. Yes.

Q. And you're familiar with the application we filed seeking to pool the unleased interest for this well?

A. Yes.

Q. Does Equitable own drilling rights in the unit involved here?

A. We do.

Q. And prior to filing the application, were efforts made to contact each of the respondents and an attempt made to work out a voluntary lease agreement?

A. Yes.

Q. What is the interest under lease to Equitable in the gas estate within this unit?

A. We have 0% in the gas estate leased.

Q. And what is the interest of Equitable in the coal estate?

A. A 100%.

Q. And all unleased parties are set out in B-3?

A. They are.

Q. Are you requesting this Board to force pool all unleased interest listed at Exhibit B-3?

A. Yes.

Q. Again, are you familiar with the fair market value of drilling rights in the unit here and in the surrounding area?

A. Yes.

Q. Could you advise the Board as to what those are?

A. A five dollar bonus, a five year term with a one-eighth royalty.

Q. In your opinion, do the terms you've testified to represent the fair market value of and the fair and reasonable compensation to be paid for drilling rights within this unit?

A. They do.

JIM KAISER: Mr. Chairman, again, I'd ask that the election option testimony taken previously from 1632 be

incorporated.

BENNY WAMPLER: That will be incorporated.

Q. Mr. Hall, again, the Board does need to establish an escrow account?

A. That's correct.

Q. And who should be named operator under the force pooling order?

A. Equitable Production Company.

Q. And what's the total depth for this well?

A. It's 2622 feet.

Q. And the estimated reserves for the unit?

A. 230 million cubic feet.

Q. And you're familiar with the AFE that has been reviewed, signed and submitted to the Board as Exhibit C?

A. Yes.

Q. In your opinion, does it represent a reasonable estimate of the well costs?

A. It does.

Q. Could you state for the Board both the dry hole and completed well costs for this well?

A. The dry hole cost is \$146,932 and the completed well cost is \$374,085.

Q. And do these costs anticipate a multiple

completion?

A. They do.

Q. Does your AFE include a reasonable charge for supervision?

A. Yes.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation, the protection of...the prevention of waste and the protection of correlative rights?

A. Yes.

JIM KAISER: Nothing further from this witness at this time, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

JAMES MCINTRYE: Motion---.

BENNY WAMPLER: Motion for---.

JAMES MCINTRYE: ---to approve.

BENNY WAMPLER: ---approval.

MARY QUILLEN: Second.

BENNY WAMPLER: Motion is second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes, but Donnie Ratliff.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval.

DONNIE RATLIFF: One abstention.

BENNY WAMPLER: One abstention, Mr. Ratliff. Next is a petition from Equitable Production Company for pooling of coalbed methane unit VC-537051. This is docket number VGOB-06-0516-1635. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman, Jim Kaiser and Don Hall, again, on behalf of Equitable Production. Again, this another Yellow Popular unit.

DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Hall, are you familiar with the application we filed seeking to pool the unleased interest for this well?

A. Yes.

Q. And does Equitable own drilling rights in the unit involved here?

A. We do.

Q. And prior to filing the application, were efforts made to contact each of the respondents and an attempt made to work out an agreement regarding the development of the unit?

A. Yes.

Q. What is the interest under lease to Equitable in the gas estate?

A. We have 0% in the gas estate.

Q. And what is the interest under lease to Equitable in the coal estate?

A. We have a 100%.

Q. Are all unleased parties set out at Exhibit B-3?

A. They are.

Q. Okay. Are you requesting this Board to force pool all the unleased interest listed at Exhibit B-3?

A. Yes.

Q. Again, are you familiar with the fair market value of drilling rights in the unit here and in the surrounding area?

A. Yes.

Q. Again, could you advise the Board as to what those are?

A. A five dollar bonus on a five year term with a one-eighth royalty.

Q. In your opinion, do the terms you just testified to represent the fair market value of and the fair and reasonable compensation to be paid for drilling rights within this unit?

A. They do.

JIM KAISER: Again, Mr. Chairman, I'd ask that the election option testimony be incorporated for purposes of this hearing.

BENNY WAMPLER: That will be incorporated.

Q. Mr. Hall, again, the Board does need to establish an escrow account, correct?

A. That's correct.

Q. And who should be named operator under the order?

A. Equitable Production Company.

Q. The total depth of the well under the plan of development for this well?

A. It's 2586 feet.

Q. And the estimated reserves for the unit?

A. 230 million cubic feet.

Q. Now, are familiar with the AFE that has been reviewed, signed and submitted to the Board as Exhibit C?

A. Yes.

Q. In your opinion, does it represent a reasonable estimate of the well costs for this well?

A. It does.

Q. Could you state for the Board both dry hole costs and the completed well costs for this well?

A. The dry hole cost is \$138,212 and the completed well cost is \$347,967.

Q. Do these costs anticipate a multiple completion?

A. They do.

Q. Does your AFE include a reasonable charge for supervision?

A. Yes.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation, the prevention of waste and the protection of correlative rights?

A. Yes.

JIM KAISER: Nothing further from this witness at this time, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

JOSE SIMON: Motion to approve.

BENNY WAMPLER: Motion to approve. Is there a second?

JAMES MCINTRYE: Second.

MARY QUILLEN: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes, but Donnie Ratliff.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval.

DONNIE RATLIFF: I abstain, Mr. Chairman.

BENNY WAMPLER: One abstention, Mr. Ratliff. Next is a petition from Equitable Production Company for pooling of coalbed methane unit VC-537052, docket number VGOB-06-0516-1636. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman and Board members, again,

Jim Kaiser and Don Hall on behalf of Equitable. We do have a set of revised exhibits for this well that Mr. Hall is passing out now.

(Don Hall passes out revised exhibits.)

DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Hall, this is again a Yellow Popular unit just a little different twist on it?

A. Yes.

Q. Could you explain the revised exhibits before we get into your testimony?

A. In the application, the exhibits showed Levisa...showed Levisa Coal Company owning the gas and coal estate when, in effect...in fact, Levisa owns the coal estate and the Pobst-Combs Heirs own the oil and gas estate. Both estates are leased to CNX. Basically, Levisa Coal is the Pobst-Combs Heirs. They have a split agreement on the...on this property. Though we erroneously listed them, they were all covered even though they were listed erroneously as Levisa rather than the Pobst-Combs Heirs. The new exhibit reflects the actual ownership.

Q. And the new exhibits also reflect a Exhibit

EE for the royalty split agreement?

A. Yes.

Q. And we're okay on notice because we...CNX is the lessee and we did notice them?

A. Right, yes.

Q. Okay. I'll give them a minute to look through this and see if there's any questions.

(Board members reviews the revised exhibits.)

Q. Mr. Hall, are you familiar with the application we filed seeking to pool any unleased interest in the unit for EPC well VC-537052, which was dated April the 14th, 2006?

A. Yes.

Q. Does Equitable own drilling rights in the unit involved here?

A. We do.

Q. And prior to filing the application, were efforts made to get a voluntary lease from each of the respondents?

A. Yes.

Q. And, again, what is the interest of Equitable in the gas estate within the unit?

A. We have 0% of the gas estate.

Q. And the interest of Equitable in the coal

estate?

A. We have 97.77% of the coal estate.

Q. Are you requesting the Board to force pool all unleased interest as listed at revised Exhibit B-3?

A. Yes.

Q. And are you familiar, again, with the fair market value of drilling rights in the unit...in this unit and in the surrounding area?

A. Yes.

Q. Could you advise the Board as to what those are?

A. A five dollar bonus on a five year term with a one-eighth royalty.

Q. In your opinion, do the terms you just testified to represent the fair market value of and the fair and reasonable compensation to be paid for drilling rights within this unit?

A. They do.

JIM KAISER: Mr. Chairman, again, I'd ask that the testimony taken regarding the election options afforded the unleased parties in item 22, that being 1632, earlier today be incorporated for purposed of this hearing.

BENNY WAMPLER: That will be incorporated.

Q. Mr. Hall, in this particular case, as

reflected in our Exhibit E, we do need to establish an escrow account for Tract 1, is that correct?

A. Yes, that's correct.

Q. And who should be named operator under any force pooling order?

A. Equitable Production Company.

Q. And what's the total depth of this proposed well?

A. It's 2641 feet.

Q. And the estimated reserves for the unit?

A. 230 million cubic feet.

Q. And has an AFE been reviewed, signed and submitted to the Board?

A. It has.

Q. And, in your opinion, does the AFE represent a reasonable estimate of the well costs?

A. Yes.

Q. Could you state for the Board both the dry hole costs and completed well costs for this well?

A. The dry hole cost is \$143,812 and the completed well cost is \$349,093.

Q. And do these costs anticipate a multiple completion?

A. They do.

Q. Does your AFE include a reasonable charge for supervision?

A. Yes.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation, the prevention of waste and the protection of correlative rights?

A. Yes.

JIM KAISER: Nothing further of this witness at this time, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

JAMES MCINTRYE: Motion to approve.

MARY QUILLEN: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes, but Donnie Ratliff.)

BENNY WAMPLER: Opposed, say no.

DONNIE RATLIFF: I abstain, Mr. Chairman.

BENNY WAMPLER: One abstention, Mr. Ratliff. Next is petition from Equitable Production Company for pooling of coalbed methane unit VC-537049, which was docket number VGOB-06-1...I'm sorry, -0516-1637. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman, again, Don Hall and Jim Kaiser on behalf of Equitable. This is our fifth and final, for this month, Yellow Popular unit.

DON HALL

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Hall, are you familiar with the application we filed seeking to pool any unleased interest in the unit for EPC well number VC-537049, which was dated April the 14th, 2006?

A. Yes.

Q. Does Equitable own drilling rights in the unit involved here?

A. We do.

Q. And prior to filing the application, were efforts made to contact and locate each of the respondents and an attempt made to work out a voluntary agreement?

A. Yes.

Q. What is the interest of Equitable in the gas estate in this unit?

A. We have 100% of the gas estate.

Q. Are all unleased parties are set out at B-3?

A. Yes.

Q. And are you requesting this Board to force pool all unleased interest as listed at Exhibit B-3?

A. Yes.

Q. Again, are you familiar with the fair market value of drilling rights in the unit here and in the surrounding area?

A. Yes.

Q. Could you advise the Board as to what those are?

A. A five dollar bonus, a five year term with a one-eighth royalty.

Q. In your opinion, do the terms you just testified to represent the fair market value of and the fair and reasonable compensation to be paid for drilling rights within this unit?

A. Yes.

JIM KAISER: Again, Mr. Chairman, we'd ask that the

testimony regarding the statutory election options afforded any unleased parties taken earlier in 1932 be incorporated for purposes of this hearing.

BENNY WAMPLER: That will be incorporated.

Q. Mr. Hall, again, the Board will need to establish an escrow account for this well?

A. That's correct.

Q. And who should be named operator under any force pooling order?

A. Equitable Production Company.

Q. And what's the total depth for this well?

A. It's 2552 feet...2552 feet.

Q. 2,552 feet?

A. Yes.

Q. And what are the estimated reserves for this unit?

A. 230 million cubic feet.

Q. Has AFE that has been reviewed, signed and submitted to the Board as Exhibit C?

A. It has.

Q. In your opinion, does it represent a reasonable estimate of the well costs for this well?

A. Yes.

Q. Could you state for the Board both the dry

hole costs and completed costs for this well?

A. The dry hole cost is \$141,632 and the completed well cost is \$353,263.

Q. And do these costs anticipate a multiple completion?

A. They do.

Q. Does your AFE include a reasonable charge for supervision?

A. Yes.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation, the prevention of waste and the protection of correlative rights?

A. Yes.

JIM KAISER: Nothing further from this witness at this time, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

JAMES MCINTRYE: Motion to approve.

MARY QUILLEN: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes, but Donnie Ratliff.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval.

DONNIE RATLIFF: I'll abstain, Mr. Chairman.

BENNY WAMPLER: One abstention, Mr. Ratliff.

DON HALL: Thank you all.

BENNY WAMPLER: Thank you.

BENNY WAMPLER: Next is a petition from Chesapeake Appalachia, LLC for a well location exception for proposed well 825687. This is docket number VGOB-06-0416-1638. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

(Off record.)

JIM KAISER: Mr. Chairman and members of the Board, Jim Kaiser and Stan Shaw on behalf of Chesapeake Appalachia, LLC. We'll ask at this time that Mr. Shaw be sworn.

(Stan Shaw is duly sworn.)

(Jim Kaiser passes out an exhibit.)

STAN SHAW

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Shaw, if you'd state your name for the Board, who you're employed by and in what capacity?

A. My name is Stan Shaw. I'm employed by Chesapeake Appalachia as a reservoir engineer.

Q. And you have previously over the last several months testified before the Virginia Gas and Oil Board?

A. Yes.

Q. And do your responsibilities with Chesapeake include the land involved here and in the surrounding area?

A. They do.

Q. And you're familiar with the application we filed seeking a location exception for this well?

A. Yes.

Q. And have all interested parties been notified as required by Section 4(B) of the Virginia Gas and Oil Board Regulations?

A. They have.

Q. Could you indicate for the Board the ownership of the operating rights of the oil and gas

underlying well number 825687?

A. Chesapeake Appalachia owns 100%.

Q. Let's see, and does Chesapeake Appalachia have the right to operate any reciprocal wells?

A. Yes.

Q. That being...I guess, which is one, that being Chesapeake Appalachia well 823795?

A. Correct.

Q. Okay. Now, in conjunction with the exhibit that we've just passed out to the Board, explain why we're seeking a location exception for this particular well.

A. This well...well, first of all, this exhibit was prepared by a surveyor primarily for the road to the well site. But it does show a few things we need to point out. To get the 2500 foot distance, this well would have to move west toward the left side of the page. This location was approved by the coal company, best elevation. If we would move on down the hill, we would have to go across that road and be in the way of or near those houses and we didn't want to get near the houses.

Q. So, this site was selected not only to minimize any impact on potential future coal operations, but also to keep us away from a fairly densely populated area?

A. Correct.

Q. Okay. In the event this location exception were not granted, would you project the estimated loss of reserves resulting in waste?

A. 400 million cubic feet.

Q. And what's the total depth of this proposed well under the applicant's plan of development?

A. 5,480 feet.

Q. Is the applicant requesting this location exception to cover conventional gas reserves to include the designated formations, as noted in the application, from the surface to the total depth drilled?

A. Yes.

Q. In your opinion, would the granting of this location exception be in the best interest of preventing waste, protecting correlative rights and maximizing the recovery of the gas reserves underlying the unit for 825687?

A. Yes.

JIM KAISER: Nothing further of this witness at this time, Mr. Chairman.

BENNY WAMPLER: Could you restate the total depth?

STAN SHAW: 5,480 feet.

BENNY WAMPLER: Thank you. Any questions from members of the Board?

JAMES MCINTRYE: Motion to approve.

JOSE SIMON: Second.

BENNY WAMPLER: Motion is second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Next is a petition from Chesapeake Appalachia, LLC for pooling of conventional gas unit 824612. This is docket number VGOB-06-0416-1639. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman, for this matter, it will be Jim Kaiser, Stan Shaw who has been sworn in and then Dennis Baker will be our witness regarding the land matters. We'll ask that he be sworn at this time.

(Dennis Baker is duly sworn.)

JIM KAISER: Before we get started, we've got a whole new set of exhibits that we need to pass out. This will be what, Dennis, a B, B-2 and B-3?

DENNIS BAKER: Yes.

(Jim Kaiser passes out new exhibits.)

DENNIS BAKER

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Okay. I guess, the first order of business would be to reacquaint the Board and, I guess, some of you acquainted for the first time with Mr. Baker. Years ago, I'm dating myself now, but I guess probably back in the early '90s when you use to meet at the 4-H Center, Dennis was my witness in all of these hearings on behalf of Equitable Production. I guess, he was the predecessor of Don Hall or maybe was with Don Hall. I can't remember that far back. But, Dennis, go ahead and sort of give the Board an indication of your work experience and background before we start testifying, then I'll have you kind of explain the revisions to the exhibit and then we'll go into your testimony.

A. Yeah, I've been in the business about twenty-six years, currently holding a position of Senior Land Representative with Chesapeake Appalachia. Prior to that, independent for a while and then prior to that, I served about fifteen years with Equitable. Leasing operations, just

about anything you have to do with well locations.

Q. And probably back in the...I guess, sort of in the '90s---

A. Right.

Q. ---you would have testified several hundred times before the Board?

A. Early '90s, I think. I kind of got the force poolings and location exceptions. Started to hear them at the 4-H Center.

Q. Certainly, Mr. Wampler and Mr. Harris probably remember him. All right, explain...before we get into your testimony, explain the revisions to the exhibits.

A. Okay, we have...on Exhibit B, we have acquired some interest.

(Dennis Baker confers with Jim Kaiser.)

Q. I'll help you. Since the time that we filed the application, we have acquired a number of additional leases, I take it. Is that correct?

A. Yes.

Q. And those leases are all set out on Exhibit B-2, which shows those additional leases as being dismissed?

A. Correct.

Q. Is that correct?

A. Yes.

Q. Okay. So, that our new B-3 shows just the respondents who remain unleased at this time?

A. That's correct.

Q. Okay. I'll give them a minute to look through those and we'll probably reiterate some of those in his testimony.

(Board members reviews the exhibits.)

Q. You've been busy. That's a lot of additional leases.

A. Yes...yes, we have.

Q. All right. We'll start with your regular testimony. Mr. Baker, again state your name, who you're employed by and in what capacity?

A. Dennis Baker, employed by Chesapeake Appalachia, LLC as Senior Landman.

Q. And do your responsibilities include the land involved here and in the surrounding area?

A. Yes, it does.

Q. Are you familiar with the application we filed seeking to establish a drilling unit and pool any unleased interest in that unit for Chesapeake Appalachia well number 824612, which was dated April the 14th, 2006?

A. Yes.

Q. Does Chesapeake Appalachia own drilling

rights in the unit involved here?

A. Yes, we do.

Q. And prior to the filing of the application, were efforts made to contact each of the respondents in the unit and an attempt made to work out a voluntary agreement?

A. Yes, there was.

Q. Now, at the time we filed the application, the percentage of the unit that was under lease was 93.113951, is that correct?

A. Yes.

Q. And today, in the last...since the time we filed the application roughly, thirty days ago, the percentage of the unit that is now under lease to Chesapeake Appalachia is 97.592371%?

A. That's correct.

Q. The percentage that is unleased within the unit is 2.407629%?

A. At the time of the hearing, yes.

Q. At the time...as of today?

A. As of today.

Q. And all of those...and the difference in those two percentages are represented in our revised exhibits and, in particular, in B-2 where we show the parties that have been dismissed from the jurisdiction of the force

pooling because they're now subject to a voluntary lease?

A. That's correct.

Q. Okay. And are all the unleased parties currently set out at the revised Exhibit B-3?

A. Yes.

Q. Okay. And in this particular unit, I don't think we don't have any unknowns, do we?

A. I don't believe so. I think we---.

Q. No. Okay.

BENNY WAMPLER: On your B-3, before we leave that, would you...you've got...it looks like you've scratched out or you've got an asterisks by...I can't tell on my copy if it's scratched out or not, but an asterisks by Buchanan Realty Company, LLC.

A. Yes.

BENNY WAMPLER: Is there a reason for the asterisks there?

A. The original application, we had showed those as being a lease tract. Since then, we've found out that this is a tract that was not covered by the lease. So, therefore, we're trying to modify it. But at this time, it's an unleased interest.

BENNY WAMPLER: Thank you.

Q. In your professional opinion, Mr. Baker, was

due diligence exercised to locate each of the respondents named here?

A. Yes.

Q. And are the addresses...addresses set out in our revised Exhibit B to the application the last known addresses for the respondents?

A. Yes.

Q. And are you requesting the Board to force pool all unleased interest as listed at revised Exhibit B-3?

A. Yes.

Q. Now, are you familiar with the fair market value of drilling rights in the unit here and in surrounding area?

A. Yes, I am.

Q. Could you advise the Board as to what those are?

A. A five dollar per acre consideration with a five year term and a one-eighth royalty.

Q. And did you gain this familiarity by acquiring oil and gas leases and other agreements involving the transfer of drilling rights in the unit involved here and in the surrounding area?

A. Yes.

Q. In your opinion, do the terms you've just

testified to represent the fair market value of and the fair and reasonable compensation to be paid for drilling rights within this unit?

A. Yes.

Q. Now, as to those respondents that remain unleased and are listed at revised Exhibit B-3, do you agree that they be allowed the following statutory options with respect to their ownership interest within the unit: 1) Participation; 2) a cash bonus of five dollars per net mineral acre plus a one-eighth of eight-eighths royalty; or 3) in lieu of a cash bonus and one-eighth of eight-eighths royalty share in the operation of the well on a carried basis as a carried operator under the following conditions: Such carried operator shall be entitled to the share of production from the tracts pooled accruing to his/her interest exclusive of any royalty or overriding royalty reserved in any leases, assignments thereof or agreements relating thereto of such tracts, but only after the proceeds applicable to his or her share equal, A) 300% of the share of such costs applicable to the interest of the carried operator of a leased tract or portion thereof; or B) 200% of the share of such costs applicable to the interest of a carried operator of an unleased tract or portion thereof?

A. Yes.

Q. Do you---?

BENNY WAMPLER: Let me just stop you and save you some time. If theirs is the same terms---

JIM KAISER: They are.

BENNY WAMPLER: ---and he testifies that he agrees they are, then we will incorporate it from the prior order.

JIM KAISER: Okay.

Q. And do you recommend that order provide that elections by respondents be in writing and sent to the applicant at Chesapeake Appalachia, LLC, 900 Pennsylvania Avenue, Charleston, West Virginia 25362, Attention: Paula Snyder?

A. Yes, that's correct.

JIM KAISER: Can we incorporate all of the testimony after this regarding the elections or do you want me to go through that once?

BENNY WAMPLER: Is it the same thing that's in the law?

JIM KAISER: Yeah.

BENNY WAMPLER: Yes, you can...that will be incorporated, if he agrees to it. You just get him to say he agrees to it, terms and conditions.

Q. Do you agree that the terms and conditions regarding the elections in the Board order will be consistent

with the statute and law?

A. Yes.

Q. And we do not need to establish an escrow account for this unit, is that correct? We don't have any unknowns---?

A. That's---.

Q. ---or unlocateables?

A. That's correct. We don't have any unknowns.

Q. Okay. And who should be named operator under any force pooling order?

A. Chesapeake Appalachia, LLC.

JIM KAISER: That's all I have for this witness at this time, Mr. Chairman.

BENNY WAMPLER: Questions of this witness from members of the Board?

JAMES MCINTRYE: Motion to approve.

BENNY WAMPLER: Wait there. We've got another witness.

JAMES MCINTRYE: Oh, sorry.

BENNY WAMPLER: Call your next witness.

STAN SHAW

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Shaw, I'll remind you that you're under oath. Could you state who you're employed by and in what capacity?

A. My name is Stan Shaw. I'm employed by Chesapeake Appalachia as a reservoir engineer.

Q. And do your responsibilities include the land involved here and in the surrounding area?

A. Yes.

Q. And what is the total depth of this proposed well?

A. 5,785 feet.

Q. And the estimated reserves of the unit?

A. 317 million cubic feet.

Q. Are you familiar with the well costs for this well?

A. Yes.

Q. And have you reviewed the AFE that was signed and submitted to the Board as Exhibit C to the application?

A. I did.

Q. In your opinion, does the AFE represent a

reasonable estimate of the well costs?

A. Yes.

Q. Could you state for the Board both the dry hole costs and completed well costs for this well?

A. The dry hole costs are \$258,393 and the completed well costs are \$488,146.

Q. Do these costs anticipate a multiple completion?

A. Yes.

Q. Does your AFE include a reasonable charge for supervision?

A. It does.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation, the prevention of waste and the protection of correlative rights?

A. Yes.

MR. KAISER: Nothing further of this witness, Mr. Chairman.

BENNY WAMPLER: Did you tell us your estimated production?

STAN SHAW: 317 million cubic feet.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

JOSE SIMON: Motion to approve.

BENNY WAMPLER: Motion to approve. Is there a second?

BILL HARRIS: Second.

BENNY WAMPLER: Is there any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval.

BOB WILSON: Mr. Chairman.

BENNY WAMPLER: Mr. Wilson. I'd like to request a clean copy of B-3.

DENNIS BAKER: I apologize for the copies.

BOB WILSON: By the time we file that, it's not going to look too good, I don't think.

BENNY WAMPLER: Next is a petition from Chesapeake Appalachia, LLC for pooling of conventional gas unit 824610, docket number VGOB-06-0416-1640. We'd ask the parties that wish to address the Board in this matter to come forward at

this time.

JIM KAISER: Mr. Chairman and Board members, again, it will be Jim Kaiser, Dennis Baker and Stan Shaw on behalf of Chesapeake Appalachia. Again, we have revised copies of our exhibits.

BENNY WAMPLER: Sure.

JIM KAISER: It may not be artfully copied either.

(Jim Kaiser passes out revised exhibits.)

BENNY WAMPLER: The record will show no others.
You may proceed.

DENNIS BAKER

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Okay. Mr. Baker, again state your name, who you're employed and in what capacity?

A. Dennis Baker, employed by Chesapeake Appalachia, LLC as Senior Landman.

Q. And you're familiar with the application that we filed seeking to establish a drilling unit and pool any unleased interest of Chesapeake Appalachia well 824610, which was dated April the 14th, 2006?

A. Yes.

Q. Does Chesapeake Appalachia own drilling

rights in the unit involved here?

A. Yes, we do.

Q. Okay. Before the application was filed, did we attempt to reach a voluntary lease agreement with each of the respondents in the unit?

A. Yes, we have.

Q. And at the time that we filed the application, the percentage of the unit that we had under lease was 89.040063%, is that correct?

A. That's correct.

Q. And we've continued to attempt to reach voluntary agreements and at this time the percentage of the unit that's under lease to Chesapeake is 98.353484%, is that correct?

A. That's correct.

Q. So, the unleased percentage at the time...today at the time of the hearing, is now just 1.646516%?

A. That's correct.

Q. And are all those additional leases that you've picked up reflected in your Exhibit B-2 that was just passed out and where we have dismissed those leased parties as parties to this pooling?

A. Yes.

Q. Okay. And then the unleased parties that still exist are listed in a great copy of Exhibit B-3?

A. Yes.

Q. Is that correct?

A. Yes.

Q. All right. Now, again, in this unit we don't...it doesn't appear that we have any unknown or unlocateable interest owners, is that correct?

A. That's correct.

Q. Okay. Are you requesting this Board to force pool all unleased interest listed at revised Exhibit B-3?

A. Yes, I am.

Q. And are you familiar with the fair market value of drilling rights in the unit here and in surrounding area?

A. Yes.

Q. Could you advise the Board as to what those are?

A. A five dollar per acre consideration with a five year term and a one-eighth royalty.

Q. In your opinion, do the terms you've just testified to represent the fair market value of and the fair and reasonable compensation to be paid for drilling rights

within this unit?

A. Yes.

Q. Okay. And we'd like to incorporate all previous testimony regarding statutory election options in accordance with the existing statutory law and regulation. Do you agree that the order should reflect that?

A. Yes, I do.

BENNY WAMPLER: That will be incorporated.

Q. And, again, we don't...the Board does not need to establish an escrow account for this unit, correct?

A. That's correct.

Q. And who should be named operator under any force pooling order?

A. Chesapeake Appalachia, LLC.

JIM KAISER: Nothing further of this witness, Mr. Chairman.

BENNY WAMPLER: Your unleased percentages on page five of the white paper and page...the last page of the grey paper is just off by one. You might want to---.

JIM KAISER: Yeah. In the last decimal place.

BENNY WAMPLER: You need to get that straightened out.

JIM KAISER: Okay. One of them---.

BENNY WAMPLER: Any other questions.

JIM KAISER: ---has got a five and one of them has got a six.

BENNY WAMPLER: Any other questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Call your next witness.

STAN SHAW

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Shaw, do your responsibilities include the land involved here and in the surrounding area?

A. They do.

Q. You're familiar with the plan of exploration?

A. Yes.

Q. And what's the total depth for this well?

A. 5,795 feet.

Q. And the estimated reserves for the unit?

A. 400 million cubic feet.

Q. Are you familiar with the well costs?

A. Yes.

Q. And have you reviewed the AFE that was signed and submitted to the Board as Exhibit C to the

application?

A. I have.

Q. In your opinion, does it represent a reasonable estimate of the well costs?

A. Yes.

Q. Could you state both the dry hole costs and completed well costs for Board?

A. The dry hole costs are \$273,796 and the completed well costs are \$521,114.

Q. Do these costs anticipate a multiple completion?

A. Yes.

Q. Does your AFE include a reasonable charge for supervision?

A. It does.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation,---?

A. Yes.

Q. ---the prevention of waste and the protection of correlative rights?

A. Yes.

MR. KAISER: Nothing further of this witness at this time, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board of this witness?

DONNIE RATLIFF: Mr. Chairman.

BENNY WAMPLER: Mr. Ratliff.

DONNIE RATLIFF: If we could get surface owners listed somewhere. The plat's identified, but the surface owners aren't. That helps me stay out of trouble.

STAN SHAW: Okay. Sure.

JIM KAISER: I've got it, yeah. Do you want me to go ahead and state them for you?

DONNIE RATLIFF: No. Are they in here?

JIM KAISER: Huh?

BENNY WAMPLER: No, they're not in what we have. Well, they're on...they're listed over there, but not the plat.

JIM KAISER: Okay.

DENNIS BAKER: Look on the application.

JIM KAISER: Drill site surface owner is Gerald Davis. Tract 2, the Lester Heirs and Buchanan and Wyatt Heirs. Tract 3, Gerald Davis. Tract 4 would be two-thirds W. L. Richardson and one-third the Green Charles Estate.

BENNY WAMPLER: If you will, in the future just add that to what the Board is getting. It's helpful. Other questions?

(No audible response.)

BENNY WAMPLER: Is there a motion?

DONNIE RATLIFF: I move to approve, Mr. Chairman.

BILL HARRIS: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. The next item is a petition from Chesapeake Appalachia, LLC for pooling or conventional gas unit 825524. This is docket number VGOB-06-0416-1641. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman and Board members, again, Jim Kaiser, Dennis Baker and Stan Shaw. Again, we have a revised set of exhibits.

(Jim Kaiser passes out the revised exhibits.)

BENNY WAMPLER: The record will show no others. You may proceed.

DENNIS BAKER

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Baker, are you familiar with the application we filed seeking to establish a drilling unit and pool any unleased interest for Chesapeake Appalachia well number 825524 dated April the 14th, 2006?

A. Yes, I am.

Q. And does Chesapeake Appalachia own drilling rights in the unit involved here?

A. Yes, we do.

Q. And prior to the filing of the application, were efforts made to contact each of the respondents that owned an interest in the unit and an attempt made to work out a voluntary agreement---?

A. Yes.

Q. ---an oil and gas lease with that respondent?

A. Yes.

Q. Okay. Now, at the time we filed the application, the percentage of the unit that was under lease to Chesapeake was 82.002721, is that correct?

A. Yes.

Q. And then subsequent to the filing of the application, in your continuing due diligence, you've picked up one additional lease in Tract 4, a Laurie Broxon, is that correct?

A. Yes, that's correct.

Q. Okay. So, now the percentage under lease in the unit has gone to 82.129009%, is that correct?

A. Yes...yes.

Q. Okay. And the unleased percentage would be 17.870991%, is that correct?

A. Yes, I think.

BENNY WAMPLER: You've got the same discrepancy as on the last one.

JIM KAISER: We've got one---.

BENNY WAMPLER: It's a number. But, you know, you'll just have to run your numbers and see which one is correct.

JIM KAISER: Round it off and round it down, yeah.

Q. Are all unleased parties set in Exhibit B-3?

A. Yes, they are.

Q. Now, in this particular case, we do have some unknown interest owners. So, I have to ask you, were reasonable and diligent efforts made and sources checked to

identify and locate these unknown owners including primary sources such as deed records, probate records, assessor's records, treasurer's records and secondary sources such as telephone directories, city directories, family and friends?

A. Yes. In addition, we tried to use the Internet and to avail.

Q. Okay. So, in your professional opinion, due diligence was exercised to try to locate each of the respondents in the unit?

A. Yes.

Q. Are you requesting this Board to force pool all unleased interest as listed at revised Exhibit B-3?

A. Yes.

Q. Now, are you familiar with the fair market value of drilling rights in the unit here and in surrounding area?

A. Yes.

Q. Could you advise the Board as to what those are?

A. A five dollar per acre consideration with a five year term and a one-eighth royalty.

Q. In your opinion, do the terms you've just testified to represent the fair and reasonable compensation

to be paid for drilling rights within this unit?

A. Yes.

JIM KAISER: Okay. Mr. Chairman, again, we'd ask that the testimony regarding the election options be incorporated for purposes of this hearing.

BENNY WAMPLER: That will be incorporated. Just get him to agree to them.

Q. Do you agree to include...the statutory options as outlined in the law and regulations be included in the Board order?

A. Yes.

Q. Okay. Now, in this particular unit, we do have some unknown respondents in Tract 4. So, the Board does need to establish an escrow account for Tract 4?

A. Yes.

Q. And who should be named operator under any force pooling order?

A. Chesapeake Appalachia, LLC.

JIM KAISER: Nothing further of this witness, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board of this witness?

(No audible response.)

BENNY WAMPLER: Call your next witness.

STAN SHAW

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Shaw, do your responsibilities include the land involved here and in the surrounding area?

A. Yes.

Q. And you're familiar with the plan of exploration?

A. Yes.

Q. And what's the total depth of this proposed well?

A. 4,980 feet.

Q. And the estimated reserves for the unit?

A. 400 million cubic feet.

Q. Now, have you reviewed the AFE that was signed and submitted to the Board as Exhibit C to the application?

A. I have.

Q. In your opinion, does it represent a reasonable estimate of the well costs?

A. Yes.

Q. Could you state for the Board both the dry hole costs and completed well costs for this well?

A. The dry hole costs are \$229,161 and the completed well costs are \$463,681.

Q. Do these costs anticipate a multiple completion?

A. They do.

Q. Does your AFE include a reasonable charge for supervision?

A. Yes.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation, the prevention of waste and the protection of correlative rights?

A. Yes.

MR. KAISER: Nothing further of this witness, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Is there a motion?

JAMES MCINTRYE: Motion to approve.

BILL HARRIS: I second.

BENNY WAMPLER: Is there any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying

yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval.

BOB WILSON: Mr. Chairman.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: My copy does not have an Exhibit E. I don't know if I just missed it. We need one because there is escrow on this unit, I believe.

BENNY WAMPLER: We have to have it.

JIM KAISER: Yeah, we're going to have to provide you with one.

BOB WILSON: Okay.

BENNY WAMPLER: The next item on the agenda is a petition from Chesapeake Appalachia, LLC for repooling of a conventional gas unit 825404. This is docket number VGOB-05-0315-1420-03. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman, again, Jim Kaiser, Dennis Baker and Stan Shaw on behalf of Chesapeake Appalachia. We do have a new AFE for this matter. This is the third time we've pooled this well. We're in the process of trying to identify all the right respondents.

(Jim Kaiser passes out a new AFE.)

JIM KAISER: Since I think the last we were here and the last AFE we filed was about a year and a half old. We have submitted a new one.

DENNIS BAKER

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. Mr. Baker, are you familiar with the application we have filed seeking to establish a drilling unit and pool any unleased interest for Chesapeake well number 825404, which was dated April the 14th, 2006?

A. Yes.

Q. And does Chesapeake own drilling rights in the unit involved here?

A. Yes, we do.

Q. And prior to the filing of the application, were efforts made to contact each of the respondents and an attempt made to work out a voluntary lease agreement?

A. Yes.

Q. And what is the interest of Chesapeake under lease within this unit?

A. At the time of application, as well as (inaudible), we have 95.100756 under lease.

Q. And the percentage that remains unleased?

A. 4.899244.

Q. And are all the unleased parties set out in B-3?

A. Yes.

BENNY WAMPLER: Could you restate those percentages under lease? They didn't match up with what I have.

A. 95.100756.

MARY QUILLEN: That's not what we have.

BENNY WAMPLER: That's not what we have.

JIM KAISER: Hum.

BENNY WAMPLER: We have 84.543019.

JIM KAISER: I wonder if you've got the new...because here's what I filed and it has got that same thing. What have you got?

BOB WILSON: I have 84.543019 as well.

BENNY WAMPLER: Does anybody have what he just said?

(No audible response.)

JIM KAISER: Well, should I go copy this?

BENNY WAMPLER: Well---.

DENNIS BAKER: Is that the new one?

JIM KAISER: Yeah.

BENNY WAMPLER: ---for now---.

JIM KAISER: I think that's probably the percentage we had the last time we pooled this or the last time we were before you.

DENNIS BAKER: It could be.

BENNY WAMPLER: For now, you can pass it around and we'll look at it---.

JIM KAISER: Okay.

BENNY WAMPLER: ---and we'll go over the numbers. You just get one of the Board member verifying the numbers and we'll go from that. Ms. Quillen can look at it as he calls them out again and then we'll pass it around. You can get copies after we finish if that's suitable with the Board members. As long as Mr. Wilson has it and we've verified it.

JIM KAISER: There should be a B and B-3.

BENNY WAMPLER: I'll just get you to restate the numbers again so she can look at that and see and verify it.

Q. What is the percentage of the unit at this time that's under lease from Chesapeake?

A. At current time, we have 95.100756.

MARY QUILLEN: Correct.

Q. And the percentage that remains unleased?

A. Unleased interest is 4.899244%.

MARY QUILLEN: Correct.

BENNY WAMPLER: You can proceed.

Q. Are all the unleased parties set out at Exhibit B-3?

A. Yes.

Q. And we don't have any unknown or unlocateable interest within this unit, correct?

A. I don't know. I don't believe so, no.

Q. In your professional opinion, was due diligence exercised to locate each of the respondents named herein?

A. Yes.

Q. Are you requesting this Board to force pool all unleased interest listed at Exhibit B-3?

A. Yes.

Q. Again, are you familiar with the fair market value of drilling rights in this unit and in surrounding area?

A. Yes, I am.

Q. Could you advise the Board as to what those are?

A. A five year...five dollar per acre consideration with a five year term with a one-eighth royalty.

JIM KAISER: Mr. Chairman, at this time, we would like to incorporate the previous testimony regarding

statutory election options.

Q. Mr. Baker, do you agree that they be consistent with the statutory law and regulations regarding those options?

(No audible response.)

Q. Mr. Baker?

A. Yes.

BENNY WAMPLER: They will be incorporated.

Q. And, in this particular case, the Board does not need to establish an escrow account?

A. No.

Q. And who should be named operator under any force pooling order?

A. Chesapeake Appalachia, LLC.

JIM KAISER: Nothing further of this witness at this time, Mr. Chairman.

BENNY WAMPLER: Questions of this witness from members of the Board?

DONNIE RATLIFF: We need the plat signed.

BENNY WAMPLER: We don't have...we don't have your plat signed. It's stamped but not signed. We'll need you to submit one that is signed properly. Thank you. Call your next witness.

STAN SHAW

DIRECT EXAMINATION

QUESTIONS BY MR. SHAW:

Q. Mr. Shaw, do your responsibilities include the land involved here and in the surrounding area?

A. Yes.

Q. Are you familiar with the plan of exploration for this well?

A. I am.

Q. And what is the total depth of the proposed well under that plan of development?

A. 5,750 feet.

JIM KAISER: Okay. Is that different than what the application says?

BENNY WAMPLER: Yes. It's 5800.

JIM KAISER: Okay.

A. Yeah, it has changed.

Q. Okay. So, it has gone from 5800 feet that was in the application to 5750?

A. Yeah.

Q. Correct?

A. Correct.

Q. And what are the estimated reserves for this unit?

A. 400 million cubic feet.

Q. Are you familiar with the AFE that has been reviewed, signed and submitted to the Board?

A. I am.

Q. And, in your opinion, does it represent a reasonable estimate of the well costs for this well?

A. It does.

Q. could you state for the Board both the dry hole costs and completed well costs for this well?

A. Dry hole costs are \$288,725 and the completed well costs are \$518,893.

Q. And that's reflected in the new AFE that was presented to the Board before the hearing today?

A. Yes.

Q. Okay. Do these costs anticipate a multiple completion?

A. They do.

Q. Does your AFE include a reasonable charge for supervision?

A. Yes.

Q. In your professional opinion, would the granting of this application be in the best interest of conservation, the prevention of waste and the protection of correlative rights?

A. Yes.

JIM KAISER: Nothing further of this witness, Mr. Chairman.

BENNY WAMPLER: Questions from members of the Board?

MARY QUILLEN: Mr. Chairman, I just have one question.

BENNY WAMPLER: Ms. Quillen.

MARY QUILLEN: Is the depth 5750 or 5800?

STAN SHAW: 5750.

JIM KAISER: 5750.

BILL HARRIS: And, Mr. Chairman, I'd just---

BENNY WAMPLER: Mr. Harris.

BILL HARRIS: Let me just ask about the AFEs. About a year and a half, and this is a significant increase, could you maybe tell us what is going on here? I mean, I can see dollar amounts being a little different through here. But, I mean, this is a significant increase I would think for a year and a half.

STAN SHAW: Yeah, the overall cost is up 17%.

BILL HARRIS: 17?

STAN SHAW: Yeah. A lot of that is in the footage rate for drilling, cementing services are higher, stimulation is higher, logging is higher, perforating and all the

providers are---.

BILL HARRIS: So, when the gas prices go up, everybody sort of jumps on to---.

STAN SHAW: Yeah, they're very busy. So, they can charge the higher rates.

BILL HARRIS: Thank you.

BENNY WAMPLER: Other questions?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

JIM KAISER: Mr. Chairman, we'd ask that the application be approved with the signed plat that we will submit to you and additional copies of the current and correct Exhibits B and B-3.

BENNY WAMPLER: Is there a motion?

JAMES MCINTRYE: So moved, Mr. Chairman.

BENNY WAMPLER: Motion to approve.

JOSE SIMON: Second.

BENNY WAMPLER: Second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Next is a petition from Appalachia Energy, Inc. for a modification of the Nora Coalbed Gas Field Rules to allow for drilling of an additional well in units I-101, I-100 and I-99. This is docket number VGOB-89-1026-0009-03. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

(Off record.)

BENNY WAMPLER: Let's take five while they get...they're getting set up anyway.

JOSE SIMON: Oh, okay.

(Break.)

BENNY WAMPLER: Okay, we'll go back on the record and make sure our witnesses are sworn.

(Witnesses are duly sworn.)

JIM KAISER: Mr. Chairman and members of the Board, it will be Jim Kaiser, briefly Frank Henderson and primarily Tom Blake as our witnesses in this matter. What our application is seeking is a modification of the Nora Coalbed Gas Field Rules to allow for...increased density drilling to allow for more than one well to be drilled within the interior window of the units. I did revise my application after talking to Mr. Wilson to, I think, correctly reflect what relief it is that we're requesting and that you were

able to...if you see fit, grant us and that's covered in four proposed provisions the order sought. I think that probably is what you were looking for again from CNX earlier today that they still haven't put into their applications, that being that both the original well and the additional well, the increased density well be within the interior window and be located at least 600 feet from each other.

Nora, as you know, are typically...I think it's 58.77 acre units. This area is right on the edge of the Nora/Oakwood Field and are sort of make up units originally so that the...they are bigger units to begin with here than your standard Nora unit. They're actually 69.66 acre units. I'll ask Mr. Henderson if we have correctly identified the units that we are seeking the increased density well in, that being units...what we're calling units 1-101, 1-100 and 1-99. Again, for purposes of clarification for the Board, two of those units involved...involved force pooling orders and one of them is a voluntary unit. Is that correct, Mr. Henderson?

FRANK HENDERSON: I do want to make a correction. It's I-99, I-101 and I-100.

JIM KAISER: Oh, it's an I? I'm sorry.

FRANK HENDERSON: Yes.

JIM KAISER: Does that look okay on the application? It looks like a 1 to me.

BILL HARRIS: They look like 1s.

JIM KAISER: Well, it should be an I. And have we, to your knowledge, in accordance with the Affidavit of Mailing and my Affidavit that I have submitted with the application, have we notified everyone that has an interest within all of those units?

FRANK HENDERSON: Yes, sir.

JIM KAISER: Okay. That's really all I have of Mr. Henderson. At this time, I'd like to introduce Mr. Blake. He has testified before you all on numerous occasions in the past. I'm going to ask him just to sort of briefly go over his work experience because he's going to be our main technical witness in seeking this modification.

TOM BLAKE

having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

QUESTIONS BY MR. KAISER:

Q. So, Tom, if you would, just kind of briefly go through your work history and experience for the Board.

A. Okay. I have a Bachelor of Science in petroleum engineering from Penn State; a Master's in business from West Virginia. I started work in '73. I moved into

management in '81. I worked for Texas Oil and Gas in the '80s doing drilling production reservoir engineering and managing those. Then I moved to Gas Research Institute and did research shell and coalbed methane for two years. Then to Cabot Oil and Gas in Charleston, West Virginia and Pittsburgh as drilling and production reservoir and manager. Then Vice President and General Manager of Equitable Production in Kingsport. I moved to Kentucky West, which is a subsidiary of Equitable and was President of Kentucky west for a couple of years. Then CNR, Senior Vice President after the (inaudible) purchase of CNR. Then whenever Triana bought them, then moved to Appalachian Production.

Q. Okay. Could you, in conjunction with the exhibits that you prepared, explain to the Board why we would like to drill these additional wells within this drilling window of these units and who benefits and why it benefits them?

A. Okay. First of all, we feel that what we're requesting here will increase recovery from the unit and enhance and optimize the economic performance because of several things: one, accelerated production; secondly, increased recovery by lowering the pressure in a coalbed methane reservoir that I'll describe later. Then accessing all of the zones effectively, which is kind of a practical

matter. But in each well you only have, you know, one opportunity to access zones. Some of the coals are available in some wells and then sometimes not. With two wells in a zone or in a unit, you have a better chance of accessing all of the zones. Then the last thing, and it's kind of an interesting economic thing, is the lower costs...average costs per well with...in addition to the recovery creates a positive economic benefit.

All of this works because this is a desorption type of reservoir as opposed to a conventional reservoir. In conventional reservoir, the gas is just held in the core space. There's not really a storage component to that. In coalbed methane, the gas is in the core space also. But it's absorbed onto the coal surface and that's what makes it unusual. It amplifies the need to get the lower reservoir pressure.

So, if you...in these exhibits, I've got two Exhibit Ones. So, I apologize for that. The Exhibit One that's in the form of a graph, this one, is a desorption isotherm for a typical coal in Buchanan or Dickenson County. If you look at that, a coal at 600 pounds would have about 500 standard cubic feet of ton associated with it. If you were to lower the pressure to 300 pounds, you get 375 standard cubic feet a ton, which means the other 125 standard cubic feet

per ton is released and available to be produced. If you look then at lowering the pressure another 200 pounds, the gas content would go from 375, let's see, down to 175, which is a release of 200 standard cubic feet a ton. So, with the increasing slope of that line, there is increase in the amount of gas released, which is unique to coalbed methane and it's the reason why operating the reservoir at a low pressure is really key to the recovery in the entire unit. The conclusion then would be that lowering the pressure is the key and it's with regard to the entire unit.

The second example, and I'm going to pull from... a couple of things just from things that I've done over the years. This next graph is an example of a model in, this is actually in Dickenson County, where modeled every well in a field, gas and water, and then added it altogether to summarize the entire field. The point being, the dots are the observed gas and water...red is gas and blue is water. The simulator, you can see the match on the gas and the water is extremely good. The reason why I bring this up is because we don't add... Appalachian Energy, we don't have physical experience with increased density on our property. I mean, we have on other...you know, in observing others. But we have to rely on a model to tell us whether this will work or not. A model is really just a simplified version of what's

going on in real life. So, that's what we would rely on.

Exhibit Three is a simulation result. This is based on a nearby area of Buchanan County offset operator. This is a graph that you have seen before. It's showing the impact of spacing on a 160 acre spacing. I'd draw your attention to the red line, which is what we would have in the...with the unit as it is and the green line, which is what it would be with two wells in that unit. There's an increased recovery of...again, this is a simulator, but it's approximately 50%. When you couple that with acceleration and well costs, it can provide more optimal results from the overall unit.

BENNY WAMPLER: What's your opinion on the life of the well, what it does...life of the gas in the unit?

A. I think it would...I mean, this is just a gut feel, I think it would reduce it. But when you're out in the forty or fifty year range, if it were reduced it wouldn't be a bad thing because it has not present value.

BENNY WAMPLER: Well, I guess, that's what I was looking at. Are you still thinking you're still going to get a long term production?

A. Oh, yeah.

BENNY WAMPLER: Even with this, you're not going to shorten it from fifty years down to twenty or thirty, you

don't think?

A. I don't. I think the reason is it's... again, it's a desorption type of a reservoir. And, you know, if you think about one well in the 80 acres and it's ability to get the pressure down to 50 pounds, I mean, it will get the pressure down at 50 pounds over where the well is, but it won't get the pressure down, you know, for the entire unit when you put two in there. And, again, that's what his simulator is saying because this...these simulators, they break the reservoir up into little tiny blocks like about a 100 foot squares is the way it usually work. And, you know, it just...you know, every time period it looks from block to block and says that some gas will go from here to here and likewise and, you know, then it just does it for the entire life of the...so, if you look at that recovery that's... that's over ten years and it's still increasing significantly.

Then...this last exhibit is...I will say we...when I at Equitable, we were considering what the optima spacing really would be. After getting the history match that I showed you, which that's the exact history match we did, the question in our mind was is our 60 acre units, because I work where Nora was the field in 60 acre units were the rule, we were curious whether maybe Consol's, you know, 80 acres was

more appropriate. We didn't have any idea really what the answer would be and ran the simulator and just started adding wells. This is the result of that. I'm going to point, this is at \$2.25 gas. We came out with an answer that was just under 60 acres, which I was absolutely amazed at that. If you were to increase the gas price, you would actually get tighter spacing and not bigger spacing. So if anything, this would be pessimistic in terms of optimal, which is why we're here.

So, the reason...oh, and this is net present value. So, there's a peak at a tighter spacing than 60 or 80 acres. The reason is acceleration and increased recovery. Then the thing that I think is interesting is the lower well investment ended up being one of the primary considerations in this. Once your pipeline is already there and your roads are already there, your power lines are a big part of this, to add an extra well decreases the average well costs significantly. Again, because it's a desorption type, storage type of a reservoir, that's why this whole thing works.

So, the benefits then, obviously, if you're maximizing the net present value of the unit, it accrues to the operator. It maximizes the revenue from the unit, which benefits the royalty owner and it also benefits the counties

in the form of a severance tax. So, Appalachian Energy asks your approval of the increased density.

BENNY WAMPLER: Tell us about your notice. In here, it says you will notify. Have we had the notices returned receipt requested?

JIM KAISER: I've got all of them.

BENNY WAMPLER: Any questions from members of the Board?

BILL HARRIS: I just have a quick question.

BENNY WAMPLER: Mr. Harris.

BILL HARRIS: About your first Exhibit One that actually shows the topo map. Could you explain the red boxes and green boxes?

TOM BLAKE: Sure. The red boxes, 148 and 149 are existing wells.

BILL HARRIS: Uh-huh.

TOM BLAKE: And 176 and 177 are future wells.

BILL HARRIS: Proposed?

FRANK HENDERSON: Proposed.

BILL HARRIS: Now, why...now, why...I guess---.

TOM BLAKE: The boxes have no---.

FRANK HENDERSON: The draftsman...they were actually supposed to just highlight them, the well colors.

BILL HARRIS: Oh, just the...oh, they did it so

that it encompassed the name---.

FRANK HENDERSON: He did the entire box.

BILL HARRIS: The name as well---?

FRANK HENDERSON: Yes.

BILL HARRIS: ---is the number? Okay, I see.

BENNY WAMPLER: Is anything in I-99?

FRANK HENDERSON: No, not yet.

BENNY WAMPLER: Okay.

JOSE SIMON: Mr. Chairman.

BENNY WAMPLER: Yes.

JOSE SIMON: Are we in the same situation here with what we talked about earlier on another case about participation issue? Some people...is it the same?

BENNY WAMPLER: The same...same issue.

JOSE SIMON: So when we get that answered, that will---.

BENNY WAMPLER: Yes. I would say to say Jim, if our attorney in disagreement we'll have her discuss that with you too as well as Mark.

JIM KAISER: Oh, that's fine. Yeah.

BENNY WAMPLER: Maybe the three of you can converge. But I will ask her to review that and...before we do an order.

BOB WILSON: Mr. Chairman.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: Just for reference as far as the Board is concerned, this area here is the one that CNX got approved for intense...increased density drilling this morning. The three units that we're talking about here are right there in the Nora Field. This is a boundary between the Nora Field and the Oakwood Field. These are the three units that they are asking for right here.

BENNY WAMPLER: Okay. Other questions or comments?

MARY QUILLEN: I have one question here.

BENNY WAMPLER: Ms. Quillen.

MARY QUILLEN: In your Exhibit B, are all of these the owners that you have leased?

JIM KAISER: That we have noticed. It's in all of the three units in which we want to drill the increased density well. Two of the units we force pooled previously.

FRANK HENDERSON: That's correct.

JIM KAISER: And one of them---.

MARY QUILLEN: So, these---.

JIM KAISER: ---is a voluntary unit.

MARY QUILLEN: Okay. So, these are the ones that you have---.

JIM KAISER: That represents everybody that owns an oil and gas interest in all three of those units.

MARY QUILLEN: In all three?

JIM KAISER: Yes, ma'am.

MARY QUILLEN: That might be helpful if that were indicated---.

JIM KAISER: Okay.

MARY QUILLEN: ---what that represents.

BENNY WAMPLER: Other questions or comments?

(No audible response.)

BENNY WAMPLER: We don't have any well cost estimates in here. But what do you anticipate. Is it going to be similar to what your well costs have been before?

TOM BLAKE: It would run about what 275 is where we're---?

FRANK HENDERSON: Yeah, we're getting them slightly higher because these wells...these proposed wells are upon a ridge top and it's going to be a little bit difficult getting there initially. But---.

BENNY WAMPLER: But your infrastructure is already there. So, your overall costs will be---.

FRANK HENDERSON: Overall, we should be lower.

BENNY WAMPLER: Other questions from members of the Board?

(No audible response.)

BENNY WAMPLER: Do you have anything further?

JIM KAISER: Well, in fact, Mr. Chairman, these...two of the units that are involved are ones that we were repooling here in just a second because we had a...one interest owner identified as being leased when they were unleased. And the AFEs that we're submitting with that show a total well cost of 274580.

BENNY WAMPLER: Other questions?

(No audible response.)

BENNY WAMPLER: Do you have anything further, Mr. Kaiser?

JIM KAISER: We'd ask that the application be approved as submitted, Mr. Chairman.

BENNY WAMPLER: Is there a motion?

JAMES MCINTRYE: So moved.

DONNIE RATLIFF: Second, Mr. Chairman.

BENNY WAMPLER: Second. Any further discussions?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval.

JIM KAISER: Thank you.

TOM BLAKE: Thank you.

BENNY WAMPLER: The next item on the agenda is a petition from Appalachian Energy, Inc. for repooling of coalbed methane unit AE-148, docket number VGOB-05-0621-1471-01. We'd ask the parties that wish to address the Board in this matter to come forward at this time.

JIM KAISER: Mr. Chairman, Jim Kaiser on behalf of Appalachian Energy and Frank Henderson. We could probably, if you want to call that other one, combine these two because it's the exact same thing.

BENNY WAMPLER: Okay. I'll do that. We'd also call a petition from Appalachian Energy, Inc. repooling of coalbed methane unit AE-149, docket number VGOB-05-0621-1472-01. We'd ask the parties that wish to address the Board in this matter to come forward.

JIM KAISER: Again, Mr. Chairman, Jim Kaiser and Frank Henderson on behalf of Appalachian Energy. There was some typos in the original application that was submitted. I've corrected those. In addition, Mr. Henderson signed the AFE and I've got revised Bs and B-3s. But the only thing we're doing here in both of these instances, these wells were pooled...these units were pooled back in June of last year. At that time, in Tract 2, we had inadvertently listed...if you go all the way down to the bottom of page three and go up

one, we had listed Edith Breeding Yates as being leased when she's actually unleased. So, we're repooling her. We've noticed her. We renoticed her and are repooling her today as being unleased in both of those units. That's the only thing we're doing. That just leaves two unleased interest in both of these units, that being Edith Breeding Yates and a Lawrence Jackson. But, anyway, I've got revised exhibits in the application for everybody. I'm probably going to have to put them together here. I can do that after the hearing if you want me to.

BENNY WAMPLER: That's fine. Do you have any testimony that you need to put on other than what you've stated?

JIM KAISER: No, sir.

BENNY WAMPLER: Just get them to confirm that's all they're doing here.

JIM KAISER: Yes. Mr. Henderson, would you confirm that what we're doing in these repoolings is correcting our earlier mistake in listing Ms. Yates as being leased when she's actually unleased?

FRANK HENDERSON: That's correct.

BOB WILSON: Mr. Chairman.

BENNY WAMPLER: Mr. Wilson.

BOB WILSON: Are the percentages changing?

JIM KAISER: Yes. And I've got all of that.

BOB WILSON: Okay.

BENNY WAMPLER: We need that for the record, I think.

JIM KAISER: Right. I've got a revised Exhibit B.

BOB WILSON: It would be---.

BENNY WAMPLER: I need testimony for the record.

JIM KAISER: Oh. Oh, okay. Mr. Henderson, would the percentage of the unit that is under lease to Appalachia Energy at this time be 97.3507 and the percentage that remains unleased representing Mr. Jackson's interest and Ms. Yates' interest be 2.6446%?

FRANK HENDERSON: That's correct.

JIM KAISER: That's in 148. Let's me make sure 149 is the same and I'll put all of this together...I'll put all these packages together for you.

BILL HARRIS: Well, it's different.

BENNY WAMPLER: Our numbers are different.

JIM KAISER: Huh?

BENNY WAMPLER: Our numbers different.

JIM KAISER: Because you don't have the revised exhibits.

BENNY WAMPLER: Okay. I gotcha.

JIM KAISER: All right. Then for 149, Mr.

Henderson, would the percentages currently be 97.03...this is unit AE-149, 97.033% under lease and the percentage that remains unleased 2.9616?

FRANK HENDERSON: That's correct.

JIM KAISER: Okay. And, again, that represents both Ms. Yates and Mr. Jackson's interest. What I'm going to do is put together after the hearing, because it will take me a few minutes, I'm going to put together packages which will have your revised application with the signed AFEs and corrected typos and the revised exhibits and I'll have one for each unit and for each Board member.

BENNY WAMPLER: Is there a motion?

DONNIE RATLIFF: I move to approve, Mr. Chairman.

JAMES MCINTRYE: Second.

BENNY WAMPLER: Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All Board members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: That concludes that portion of our docket today. I guess now we're open for public comment.

DANNY McCLANAHAN: I'd like to address the Board

there and ask them and a few questions about the---.

COURT REPORTER: You need to come forward, sir.

BENNY WAMPLER: We need to get you up here where we can...get you a seat up here where we can get you recorded. State your name for the record for us.

DANNY McCLANAHAN: Danny McClanahan. I'd...they showed that they had showed due diligence in finding a...the owners of the gas and oil on my property on T-36. We discussed that earlier.

BENNY WAMPLER: Yes, sir.

DANNY McCLANAHAN: In 1997, in their first permit application, their people they did show me as an owner of my gas and oil until the Linkous Horn Heirs jumped in there and then they...from that...four months in '98, they showed me on a permit modification as a claimant, which I feel like they should have made them the claimant and showed me as the owner, which their title searches, you know, showed in this permit application that I was the owner of my surface and oil and gas and then they changed it. I'm wondering why they changed it, you know, and how they got...you know, could do that?

BENNY WAMPLER: Well, one thing, them just changing it doesn't really change it legally. It can only be changed by something that's...I'll let Mr. Wilson, if he wants to add

anything. But they can only be changed by a Court of law.

DANNY McCLANAHAN: Right. But it will to me. It makes me feel like that it put the burden of proof on me to prove to them that I owned it. Do you see what I'm saying?

BENNY WAMPLER: Yes, I do. I do.

DANNY McCLANAHAN: I mean, right here is the papers where they showed...gave me the first time showing that I was...showed my percentages as the oil and gas in there, the Thomas Stilwell Heirs and everybody. I'm the only one that they've changed and made a claimant out of this...on all of that. Then four months later, they just changed it around and made me a claimant because the Linkous Horn Heirs at that first meeting said they owned it, which by law and the way it's...I think it should have been, they should have named them as the claimant since their researches, title searches...which I went down and title searched it myself and I ain't found nothing saying they owned it neither. You know, their people that pay to go down there and search these deeds said that I owned it in the beginning---.

BENNY WAMPLER: Yes.

DANNY McCLANAHAN: ---until they came up and said they owned it, the Linkous Horn Heirs. Then, like I said, changed it over and made me a claimant. Which like I say, I know I still got my claim in there but it makes me feel like

I have the burden of proof to prove that I have it where they would have to take me to Court and prove that they owned it the other way around.

BENNY WAMPLER: Right.

DANNY McCLANAHAN: I'm on disabled social security and I own draw \$503 a month and I can't hardly afford to draw...you know, hire a lawyer.

BENNY WAMPLER: Bob, have you looked into this any?

BOB WILSON: Yes. Mr. McClanahan was in the office last week. We talked about this some. To the best that I can tell, the Board and the Department really have no actions that we can take in this. As I explained to Mr. McClanahan, so long as his claim is in place, the Board is going to protect his escrowed moneys.

BENNY WAMPLER: Yeah.

DANNY McCLANAHAN: Right. But---.

BOB WILSON: But whether he is shown as a claimant or an owner or it's the other way around---.

DANNY McCLANAHAN: But still, like I say, you all have the right to make them follow the law as far as due diligence in finding who owns the gas and oil, which they went down on this first permit application and found...and said that I own the gas and oil. Then until the Linkous Horn Heirs come in there with their lawyer and stated that they

owned it and then four months later, like I said, they made me a claimant and just throwed me out as an owner, you know, which I don't think they should have been able to do that.

BENNY WAMPLER: Well, I tell you what we can do, we can write a letter stating that you questioned due diligence---.

DANNY McCLANAHAN: I mean, this has been a long time, you know, coming---.

BENNY WAMPLER: ---and their activity---.

DANNY McCLANAHAN: ---you know, since '97 they done that.

BENNY WAMPLER: ---on behalf of the Board, if the Board wants to do that and see what they present in the way of their background.

DANNY McCLANAHAN: Because they couldn't find nothing no more than I found down there at the Courthouse. I've got all the deeds from the day...from 1918 or something like that when they first sold the coal off from it and everything and the Linkous Horn Heirs, they ain't nobody ever sold the gas off from it. Where they legally made their claim there and the Board and everything, they went ahead and CNX...well, Pocahontas Gas at first made it to them. So, they just changed it around and made me a claimant, which I don't feel like was right.

BENNY WAMPLER: You know, they're treating you as a surface owner and not a mineral owner.

DANNY McCLANAHAN: Yeah, yeah. We...in that first permit application they showed that I owned the surface and the oil and then because they...the Linkous Horn Heirs said they owned it---.

BENNY WAMPLER: Right.

DANNY McCLANAHAN: ---they made me a claimant, which I feel like they should have made them the claimant and left me the way they first represented. I mean, because I---.

BENNY WAMPLER: Of course, we don't...we don't know what---.

DANNY McCLANAHAN: I'm sure they paid lawyers, you know, pretty good money to research them deeds down there and title search and everything and do that...they're suppose to do that before ever permitting, you know.

BENNY WAMPLER: Well, as it relates to you, we can certainly ask for what their title search shows you...your ownership, if it's purely surface or whether it has mineral. I mean, if the Board---.

DANNY McCLANAHAN: Well, minerals there that comes into Court play too. In 1957 when one deed was wrote, the Linkous Horn Heirs did except all minerals with the right to

mine and remove the same. According to the law in Virginia, in 1957 minerals does not include oil and gas. They amended that law in 1974 to include gas and oil and that even goes along with the Supreme Court's decision here lately, you know. It has to be specified.

BENNY WAMPLER: Right.

DANNY McCLANAHAN: You know, like I say, I've got the deeds and everything. If you need copies of that, I can send it to you all showing, you know, that I feel like, you know, I own my gas and oil and shouldn't have been named as a claimant in the permit modification that they had four months later.

BENNY WAMPLER: Any questions from members of the Board or do you have any suggestions?

MARY QUILLEN: Mr. Chairman, the letter that you're proposing that comes from the...I guess, from---.

BENNY WAMPLER: It will come from Mr. Wilson on behalf of the Board.

MARY QUILLEN: Right, on behalf of the Board.

BENNY WAMPLER: If the Board agrees with that.

MARY QUILLEN: Is this to these people that are claiming to own---?

BENNY WAMPLER: No, it would be to CNX.

MARY QUILLEN: Oh, okay.

DANNY McCLANAHAN: Mr. Arrington.

MARY QUILLEN: Okay.

BENNY WAMPLER: Asking their...what---?

DANNY McCLANAHAN: Especially. He's the one that
done the permit.

BENNY WAMPLER: ---their research shows? I mean,
that's about basically all we can do.

MARY QUILLEN: Right. Yeah.

DANNY McCLANAHAN: Right, right. What kind of
information, you know, and---.

BENNY WAMPLER: That they're relying on.

DANNY McCLANAHAN: ---you know, ask them...the
question that I would like to be asked if they searched the
deeds at first to find out who it was and what was brought to
his light to make him change me as the surface owner only,
you know.

BENNY WAMPLER: Right.

DANNY McCLANAHAN: Which there's nothing else down
there, ma'am.

MARY QUILLEN: And you're saying CNX?

BENNY WAMPLER: Well, it's Pocahontas Gas in the
beginning, yes, ma'am.

MARY QUILLEN: Oh, Pocahontas Gas to start, but now
CNX.

DANNY McCLANAHAN: But where they've got Mark Swartz and Mr. Arrington, they're both still yet working for the same....different company, I mean. They done it all in the beginning there.

MARY QUILLEN: Right. But you're saying that they are the ones that made this change---?

DANNY McCLANAHAN: Yes, ma'am.

MARY QUILLEN: ---from owner to claimant?

DANNY McCLANAHAN: Yes, ma'am.

MARY QUILLEN: Oh.

BENNY WAMPLER: That's why I was suggesting that we just write them a letter and ask them---.

MARY QUILLEN: Uh-huh. Okay. I just---.

BENNY WAMPLER: ---what information---.

MARY QUILLEN: ---thought we needed to clarify who it---.

BENNY WAMPLER: ---they're basing that change on for him. That's basically all we can do, you know.

DANNY McCLANAHAN: Right, right. Because I've been before you all a couple of times, even with the map situation and everything. I can show in '98 they had the map right and then in '99 or 2000 they started cutting my property down and trying to make it seem like I had a dispute over the land period with the Linkous Horn Heirs, which there never was a

dispute over that. They...as far as stated it, it never had been surveyed, which D. R. Price surveyed my property. I don't know why they, you know, still, you know, let on like it wasn't surveyed. But they come up there and surveyed it. That's all I wanted to bring to your attention.

BENNY WAMPLER: All right. Thank you. Thank you very much.

DANNY McCLANAHAN: Thank you.

BENNY WAMPLER: The last item on the agenda is the minutes from the last meeting. I'll ask if there's any...any questions or comments or changes...suggested changes.

BOB WILSON: Mr. Chairman, I think---

BENNY WAMPLER: Oh, I'm sorry. I'm sorry. I didn't mean to cut you off.

BILL HARRIS: I thought they were together.

MARY QUILLEN: I thought they were together.

THEO WHITT: No.

BENNY WAMPLER: Come up and state your name for the record for us and comments.

THEO WHITT: Yes. My name Theo Whitt. I live up on Contrary.

BENNY WAMPLER: Wait just one second. Let me get you to restate your...pull that mic over so that we can---

THEO WITT: I'll just scoot over here.

BENNY WAMPLER: Is it Theo?

THEO WITT: Theo.

BENNY WAMPLER: How do you spell it?

THEO WITT: T-H-E-O, the last name, W-I-T-T.

BENNY WAMPLER: W-I-T-T?

THEO WITT: Yes, sir. Well, I live up in Clifton Fork. I bought land there in '98. I never received any kind of paperwork or anything from Consol or CNX or any of them until 2004. I can even show you papers here where as late as 2005, they still don't have us listed as the property owners. What I want to know is what I have to do to put my claim for the gas and oil? I have also done my research of the deeds and gas and oil is not stated nowhere in the severance deed, coal, minerals, you know, or oil. But gas and oil is stated nowhere. Like I said, they send me no copies of no drilling or nothing like that. They decided that they were going to put a pipeline across another tract of property that I bought in 200...the last of 2003. It might have been the first of 2004 before I put it on record. They took me to Court in Tazewell County and got an injunction against me to keep me off my own property, which I have copies of all that too. I mean, I don't know how I can go to Court in Tazewell County for stuff that was done in Buchanan. Right here it is.

BENNY WAMPLER: Were you stopping them from

crossing or trying to?

THEO WITT: Well, I tried to stop from crossing.

BENNY WAMPLER: Yeah, that's probably what it's about. It's not about...it's not about ownership. It's about stopping it. I mean, it really...I know it doesn't make any sense probably. But it...you can't...you know, a lot of this stuff with mineral the way it's written, mineral development, you can't stop it even if you do own it.

THEO WITT: Well, but can you explain how we have Buchanan County Court in Tazewell County?

BENNY WAMPLER: I can't explain that. I can't---.

THEO WITT: I mean---.

BENNY WAMPLER: Have you all had the conversation before?

BOB WILSON: Yes.

THEO WITT: Yes. I talked to him last week also.

BENNY WAMPLER: Okay. If he writes you and lists the property and area and everything, you can get that to them and ask them to explain and add him to the...as a claimant, right?

BOB WILSON: Sure. No...we can...we can send them a letter, again---.

BENNY WAMPLER: Right.

BOB WILSON: ---from the Board stating that you've

brought this to the attention of the Board and that you are stating that you claim the gas and oil and they would have to answer that.

THEO WITT: Yes, I'd like to be listed---.

BENNY WAMPLER: And we need to know where the property, I guess, specifically, if you'll give Mr. Wilson that information.

DANNY McCLANAHAN: Do you want me to show it to you?

THEO WITT: Yeah. Do you got it on that one paper, Danny?

DANNY McCLANAHAN: It's on S-36.

THEO WITT: That's the one. Then the one that they drilled right there beside of my house and front yard, which they asked---.

DANNY McCLANAHAN: But it's still that's due diligence too. They're not going back to the Courthouse and seeing if the property has been sold again or nothing like that. So, they're still doing it with the hold permit things right there what they first researched and still saying that (inaudible) Horn owns it where this man's wife owns it.

THEO WITT: But they also, when it came time for them to longwall under my house, they sent me those papers. But yet that's the first papers I ever received from them was

when they was wanting to settle with me on my house---.

BENNY WAMPLER: Right.

THEO WITT: ---which we still haven't...haven't done.

BENNY WAMPLER: I don't know anything about as far as keeping, you know, the injunction and how they go to another jurisdiction. I don't understand how that works.

THEO WITT: Well, see Judge Keary Williams was too busy to hear it. That was their---.

BENNY WAMPLER: They may have something with the Judges then.

THEO WITT: Well, you know, I just asked them that day over there if he knew that, you know. But needless to say, I got talked pretty bad to over there that day, you know, telling me that I wasn't an attorney. They called me at 5:30 in the evening telling me to be over there by 9:00 o'clock the next morning to protect my interest in that property. Not giving me time to get an attorney or nothing. I show up over there and I get talked to like a dog. I mean, basically, just sit down shut up and this is what's going to happen. Every time I try to say something, she told me I wasn't an attorney. They reached me the papers telling me I've got an injunction and to stay off of my property and they can come on there and do whatever they want to do, you

know. That's pretty much what it boiled down to. They put the pipeline right through the middle of it tearing up three houses...three lots that I had that could have had houses built on them. They ain't got nothing on them, but they could have been. Now, they can't be nothing put on them because of the line.

BENNY WAMPLER: Now, on the surface...the permitting of that on the surface, they would have...you would have... you would have to be noticed as a surface owner.

THEO WITT: That's the first letter I ever got from them.

BENNY WAMPLER: Oh, okay.

THEO WITT: I also...I believe I got a copy in here somewhere. It was...that's 10/31/05. That's when it was. So, that was in '05. That's the first stuff we ever got from them. We've owned that land since...like I said, since '98. But yet in 2002 or 3 they sent me a letter telling me that they were going to longwall under my house. So, you know, it ain't like they didn't know we owned it.

BENNY WAMPLER: Right.

THEO WITT: But yet they sent us nothing else on the gas. The people that we bought it off of before they, you know, are country people or whatever and they just said,

well, the minerals was sold. So, we don't own nothing. They were satisfied with that. Well, after I bought it, I wasn't satisfied with that. So, I went to the Courthouse and done my own research. Like I said, I got a copy of the J. Power thing and like I told the people from Consolidated, if you show me where the oil and gas, then I'll shut up. I'll never...I'll not never say another word. But, you know, they can't do it because it's not in there. But yet they give me no kind of a---.

BENNY WAMPLER: Notice.

THEO WITT: ---notice or nothing, you know. Just like I don't...like we don't even exist. I'm also a poor person, you know. I ain't rich. You can't...you can't---.

BENNY WAMPLER: Well, we'll write them---.

THEO WITT: ---hire an attorney when you don't have the funds. When you go talk to an attorney, 90% of them somewhere down the road has done work for Consolidated, CNX or Pocahontas. So, you know, your hands is tied. Where do you turn? Who do you ask for help? I mean, I have letters here that a friend of mine had wrote to me to the Governor and everybody else, the Trade Commission and all of them and them telling me that they can't do what they done about putting that across me without coming to an agreement. They offered me a \$1,000 for the pipeline, a \$1,000 for the power

line and \$1,000 for the right-of-way to use my road and told me I can either take that or I take nothing. Like I told them, you know, I might can't stop you from doing it but you all can't make me take your money because I'm not satisfied with that and I'll take nothing. The way they acted, that \$3,000 was 300 million. I told me I ought to take that and put it in the bank to send your little girl to school and this and, I mean, act like it was, you know, a fortune. Like I told them, I'll take nothing before they tell me what I have to take to use my property.

BOB WILSON: Can I ask you a question?

THEO WITT: Yes, sir.

BOB WILSON: The pipeline that we talked about the other day and the one you're talking about now, was that the first time they have been on your surface?

THEO WITT: No. The fellow I bought it off of, he signed the paper with them giving them the right to put a pipeline at the top of the mountain at the S-36 well. They had done that and that was all that was done. Well, they come to me and wanted to put a well on my property and I asked them that after they got done with their well, if they would leave it open for the community, me and my neighbors to use. That they could put that well on me. I had no problem with it. They first lead me to believe that that's what they

was going to do. Well, it couldn't up to the end and they say, well, it's too many safety issues. We can't do that. So...then I said, well, then you can't put it on me. Now, I didn't want their money. That's all I asked. Just leave the well open for all of us to use because, you know, we ought to get some kind of benefit out it. You know, that's free heat for our homes, you know. That's something that we all could, you know, benefit from. They said that they didn't wouldn't do that. So, then I told them, well, they couldn't put the well on me. So, they went over across the hollow and a neighbor of mine had a garage there. They told him, we'll tear down your garage and pay you \$2500 to put this well here and then after we longwall out and under it and everything and we move the well, we'll build you a garage back. So, that's what they done and that's how they put the well. But they crossed the hollow and took the line straight up through the middle of my property to tie in at the top. So, that's leaves me, you know, with a piece of property that's basically useless to me right now that I paid good money for, you know. They could have bought it just like I did, you know.

BENNY WAMPLER: Well, now there is a law on the books about permitting...the permitting section of it that you have a right to have reasonable access if you have

property and things like that.

THEO WITT: Well, I can't...I can't---.

BENNY WAMPLER: They have...they have reason...they have a right of reasonable access. But you have the right to make...you know, to make sure they're not doing...taking away a particular piece of property that has...that has use.

THEO WITT: Well, the papers that they send you all said that there was nothing there but woodlands when there were two graded out lots the size of a 20 acre...20 acre lots graded out but yet the papers they sent to your office for permits said that it was nothing but woodlands. I didn't go grading them out afterwards or nothing. I mean, they are always there.

BENNY WAMPLER: But you didn't appeal it when Mr.---.

BOB WILSON: Well, I tried to. I wrote you all a letter and give me what fifteen days or something like that.

BENNY WAMPLER: Fifteen days.

THEO WITT: Then after a few days, I get a letter back from you all saying that I didn't specify what I was objecting to on my property. Well, I was objecting to anything and everything, you know. I mean, I don't know what I was suppose to specify. They wouldn't doing nothing but putting a pipeline across me, you know. That's what I

objected to. So, therefore...and that's when the mines caught on fire. So, when the mines caught on fire, then they just quit everything, you know, to do with the gas and stuff and went to fighting that far and doing all of that. It's just like it all stopped.

DANNY McCLANAHAN: Went away.

THEO WITT: You know, just like it went away. I didn't hear nothing from them. I didn't hear nothing from nobody for, what, almost a year. Then I come home one day and go over there and they've got a pipeline slipped down through the woods in the middle of the night or whenever they done it, I don't know when they done it, ready to cross the road and crossed the hollow on my property. Then that's when I parked my boat and stuff there and blocked it. But they done that and it run from the top of the mountain to the bottom before I ever even knew it was there.

BENNY WAMPLER: Well, we will definitely write them a letter on behalf of the Board, the same thing on due diligence. That's basically what we can do and to see why you're not being included and, you know, see if that...if that can help you. Hopefully, it can.

THEO WITT: Well, I sure appreciate it. I mean, that's all I ask. You know, I ain't asking nothing that I don't think that, you know, is...it belongs to me or...I

don't think they should be able to tell me what I have to take from my property. That would be like me saying, okay, I like your car and I say it's worth a \$1,000, so here, you take or you take nothing and I'm taking your car whether you take the \$1,000 or not and you like it. Then what do you do? I mean, I can do nothing. But every time I come on my driveway and look over there and look at that big green pipeline that runs all the way through the middle of my property and was told as much that there was nothing I could do about it by them and basically laughed at me.

DANNY McCLANAHAN: The way his property is, it's like a triangle, a small strip. The way they run that line, 300 foot of it on this side and 300 foot on that side, they ain't nothing he can do. It basically tied his whole property up, one section of his property.

BENNY WAMPLER: It's not buried? It's on top of the ground?

THEO WITT: Yeah, it's on top. No, it's not buried.

BOB WILSON: Mr. Witt, could I get your telephone number, if you don't mind? I just want to verify exactly which tracts of land---.

THEO WITT: 276-498-7454. And I can show you on those maps. Do you got that little old map? I can show you

exactly which property it is.

BOB WILSON: I have copies of those. I just want to be able to verify that I'm looking right one.

THEO WITT: Well, since...since the initial piece of property there I bought I've bought several different... well, a couple more different tracts of property since the original tract that I bought. But it all come off of the same different, you know, family members that...it was divided up in heirship. You know, like I bought the first piece and then I bought like one brother and then I bought like an uncle, you know. Now, I have a pretty good piece of property there.

DANNY McCLANAHAN: Like I said, all the people he bought off from still owns it and they ain't recognizing him as the owner.

THEO WITT: As nothing.

BENNY WAMPLER: Well, we'll definitely write them a letter on the question of due diligence on it. I appreciate your comments.

THEO WITT: Well, I sure thank you all for listening to me. I mean, I hate that it has, you know, tied up you'uns time, but I appreciate it.

BENNY WAMPLER: Well, hopefully, we can help a little bit. We'll certainly try.

THEO WITT: Well, I sure thank you.

DONALD RATLIFF: Thank you.

BENNY WAMPLER: Thank you, Danny.

DANNY McCLANAHAN: Yeah, I do too.

BENNY WAMPLER: We have the minutes from the last meeting. Was there any suggestions or correction or what have you? If not, I'll---.

THEO WITT: Can I say one more thing? Even though they say that I don't have the rights to do known of that, right here is the last papers that they sent me wanting me to sell them the rights to do it. If I don't have the rights, why are they wanting to buy them from me?

BENNY WAMPLER: That would be a good question.

THEO WITT: Well, you know, right here they are and if you...it would take a...it would take a fool to sign either one of these papers because it would basically give them the right to do anything and everything they wanted to on all of my property. See, they redrilled the well at the top here about, I don't know...four or five months ago, they come back and closed the original well and drilled another well. They're wanting to pay me for that well that they redrilled.

BENNY WAMPLER: Okay.

THEO WITT: But, you know, like I said, if...if I

sign this and took the money for that, I'd be signing away everything on all of my property. I mean, it's pretty pathetic. It would take a fool to sign those. I mean, if you all want to look at them, you can.

BENNY WAMPLER: We've probably seen them.

THEO WITT: I'd say you probably have.

BENNY WAMPLER: Yeah.

THEO WITT: But, I mean---.

BENNY WAMPLER: We appreciate your time and, like I said, we'll write a letter and see what we can do. I'll even tell you this, I'll make a personal phone call too and see... see what we can find out.

THEO WITT: I sure...I sure thank you.

BENNY WAMPLER: Thank you.

BILL HARRIS: Mr. Chairman, I'd like to move that we accept the minutes or approve the minutes as presented in our packets.

DONALD RATLIFF: Second.

BENNY WAMPLER: Motion and a second. Any further discussion?

(No audible response.)

BENNY WAMPLER: All in favor, signify by saying yes.

(All members signify by saying yes.)

BENNY WAMPLER: Opposed, say no.

(No audible response.)

BENNY WAMPLER: You have approval. Do you have anything else, Mr. Wilson?

BOB WILSON: Yes, sir, very quickly. I've got a...I've got a...I'm going to keep Jim here until dark. He has been trying to get all of that expense account since before noon.

Two things relative to the escrow account and the possibility of changing agents on that or at least explore that possibility. The RFPs for bank services and for accountant services are in final draft. My ad hoc advisory committee is meeting tomorrow to look at it one final time. These are our people from our internal auditor's office, our office of financial services and our office of general services that handle...who handle contracting. We're anticipating getting that out fairly quickly, having a public meeting for the people who might want to participate and get that back and see where we are. We did finally find out that the official transfer of ownership of that particular part of Wachovia is the end of June. Unofficially, this is from Wachovia's source, it has already taken place and AST is doing this in Wachovia's facilities with Wachovia's people under contract with Wachovia until it's sufficiently done.

So, it's still being done under Wachovia. But, basically, kind of subcontracted until the...all the paperwork is signed.

I have informed the AST representatives that we're looking at the three options that we have discussed here before, that being: Staying with them, holding Wachovia to the contract or going in a different there. Aware of what we're doing. I have also talked to a separate portion of Wachovia, being the person who is in charge of government and institutional banking in Virginia. They seem to be interested in the possibility of keeping the account and are looking at other operations within Wachovia to see how they might be able to do that. I had also told him that we're going through this process. So, that's where that particular process is.

Secondly, I got yesterday an estimate for audit of the Wachovia managed account, which would last from day one until day...until the end of June whether they keep then or not through this particular episode of Wachovia. We got an estimate of...a maximum estimate of \$9,500, which is in my way of thinking, extremely reasonable for that much of an audit. We have been paying close to \$5,000 for a two year audit in the past. This is from the outfit who has done our audits in the past. Our contracting people, office of

general services, are looking at this to see exactly what path we have to take. If we do an audit...we will do an audit. We've already...I think we've talked about this before. It will be paid for out of escrow account fees. We may have to solicit bids from a couple of other places to be in compliance with State contract and regulations. That's what OGS is looking into right now. But that's where we stand on that.

Any questions or suggestions, I'd be glad to answer them now or later.

BENNY WAMPLER: Any comments or questions?

(No audible response.)

BENNY WAMPLER: Okay. Does anybody have anything else?

(No audible response.)

BENNY WAMPLER: That concludes our meeting. Thank you so much.

BOB WILSON: Thank you.

BILL HARRIS: Thank you.

STATE OF VIRGINIA,

COUNTY OF BUCHANAN, to-wit:

I, Sonya Michelle Brown, Court Reporter and Notary Public for the State of Virginia, do hereby certify that the

foregoing hearing was recorded by me on a tape recording machine and later transcribed under my supervision.

Given under my hand and seal on this the 14th day of June, 2006.

NOTARY PUBLIC

My commission expires: August 31, 2009.